ROMANAE HISTORIAE ANTHOLOGIA RECOGNITA ET AVCTA.

AN

ENGLISH EXPOSITION OF THE ROMANE

Antiquities, wherein many Romane and Englisth Offices are paralleld, *and diuers obſcure Phraſes* explained.

For the vſe of ABINGDON Schoole.

Thomas Godwin

Reuiſed and enlarged by the Author.

Printed for *Henrie Cripps* of Oxford. 1625.

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1625

VIRO COLENDISSIMO

Dº IOANNI YOVNG SS. THEOLOGIÆ DOCTORI, & Eccleſiæ *Wintonienſis* Decano *Ornatiſſimo.*

Εὐδαιμονίς ατα διάγειν.

Vir ornatiſſime,

NON liberi quàm libri pluribus exponi periculis ſolent, cùm primùm prodeant in lucem: vtriſque pariter opus eſt tutelari aliquo numine obſtetricante. Hoc olim ſenſit Anthologia hæc noſtra primùm edita: idem ſentit eadem in hodierna duarum ſectionum, & capitulorum aliquot ſuperfœtatione. Nacta igitur ſecundas ſuas cogitationes te ambit Patronum, qui facem aliquam mihi in his antiquitatibus obambulanti pretuliſti, &

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quem multum fuiſſe in ſtudijs meis promouendis, palam, & ſub Dio prædico. Videbis me aliquoties alium à doctiſſimis viris, & ab illorum ſententijs alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Ariſtoteles, (nolo ego iſtiuſmodi inſaniam inſanire, vtcunque ſplendidam & *autoritatiuam*:) Cæterum tacitus hoc facio, & apud me, citra omnem velitationis pulverem, raro ad modum quouis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adverſario aliquo eximio commiſſia, gloriolæ neſcio quos fumos ſibi pollicentur. Hæc ſcribendi ratio ſi tibi placeat, alios non moror; quibus ſi ſimplex veritas non arriſerit, cum magnis nominibus deviare per me licebit. Vale, & meas Muſas, vt ſoles, ama; illæ, quod jam faciunt, te colent ſemper, & omni obſequio proſequentur. *Datum Abindoniæ* 14. *Calend. Decemb. Anno* χριστογονικ. 1622.

Dignitati tuæ

multiplici nexu mancipatus,

THO: GODWYN.

BENEVOLO LECTORI.

Εὐπράττειν, Εὐφρᾶνειν.

IRARIS forsan & redarguis, quòd nondum destitum ab his elementaribus, quasi vita mihi vitalis foret, in his minutijs integram meam ætatem eludere, & votum vnicum in his prævijs studijs senium contrahere. Qui sic sentis, nec me satis nôris; nec ludi literarij (pone lenocinium nominis, moletrinæ dices) iniquas leges, aut miserias quotidianas, & omnigenas. Sentio ego me in pistrinum damnatum, & cogita tu hanc Anthologiam è pistrino prodeuntem. Si minus placeat, illud dabis puérorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc studia, quæ alias iamdudum iussissem suas sibi res habere; Sic me amet Theologia, sacratior mihi pagina invotis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ accessêre, non vulgaria, aut obuia; nec quæ vulgus hominum, aut docuit, aut didicit. Vale.

A ſhort Table ſhewing the Argument of euery Booke and Section.

Lib.

1. Of the Romane Cſty. Sect.
   1. Of the chiefe parts thereof.
   2. Of the generall diuiſions of the Romane people.

2. Of the Romane religion. Sect.
   1. Of certaine generall diuiſions of their Gods.
   2. Of the Romane Prieſts with ſome particular Gods, together with their rites in mariages and burials.
   3. Of the Roman games, which endeth with their manner of taking meate.

3. Of the ſtate politicall. Sect.
   1. Of their aſſemblies called Comitia, which Section is begun with the Romane yeere, concluded with two chapters of the Romane garments.
   2. Of their ciuill Magiſtrates.
   3. Of their ciuill puniſhments.
   4. Of all thoſe lawes which I haue obſerued to be touched in Tully his Orations.

4. Of the Art militarie, as it was practiſed by the Romanes. Cap.
   1. Of their manner obſerued in eſtabliſhing their leagues.
   2. Of the Romane Legion, and the partes thereof.
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   6. Of certaine rewards after the performance of any noble exploits.

THE ROMANE ANTIQVITIES

expounded in Engliſh.

LIB. I. SECT. I.

Of the chiefe parts of the Citie.

CAP. I.

De modo condendarum, delendarumq; vrbium.

BEfore we handle the deſcription of the particular places in the Romane Citie, it will not bee amiſſe to premiſe ſomewhat concerning the ancient manner of building and raizing Cities. In the building of cities, the founders thereof did vſually conſult with their Gods in their *Augurall* obſeruations; and [a] this courſe was obſerued by *Romulus* himſelfe, in the firſt foundation of *Rome*; After their *Augurall* obſeruations, they marked out the place where the wall of the Citie ſhould bee built, by plowing vp the ground; and becauſe they left that ſpace of ground vnplowed, lightly lifting the plough ouer it, where they ap-

[a] M. Tullius lib. 1. de diuinat.

pointed the gate of the city, thence *a portando*, from carying and lifting the plough, they called the gate *Porta*. This cu-

b M. Cato in fragm. ſtome is fully deſcribed by [b] *Cato: Captato augurio, qui vrbem novam condebat, tauro & vaccâ arabat: vbi arâſſet murum faciebat, vbi portam volebat eſſe, aratrum tollebat & portam vocabat.* *Virgil* alſo alludeth vnto it,

Interea Æneas vrbem deſignat aratro.

The maner hereof was, that he who held the plough, did caſt vp the skirt of his gowne on his right ſhoulder, & gird himſelfe about, either becauſe this was the vſuall habit of ſuch who performed holy rites; in the number of which this preſent action was reputed; or that he might the more readily addreſſe himſelfe to the buſineſſe; or laſtly, that he might ſymbolically by that pacifical habit intimate, that the flouriſhing eſtate of a Citie is not ſo much preſerued by warre, as by peace. Hence *Ovid, lib.* 4 *Faſtorum.*

Ipſe tenens ſtuam, deſignat mœnia ſulco,
Alba iugum niueo cum bove vacca tulit.

c Cæl. Rhod. antiq. lib. 26. cap. 5. The [c] like cuſtome was vſed alſo in the razing or demoliſhing of cities, when they had beene vanquiſhed by the enemies. Which obſeruation giueth light to that of *Horace*, *Lib.* I. *Od.* 16.

——vrbibus vltimæ
Stetêre cauſæ, cùm perirent
Funditus, imprimeretque muris
Hoſtile aratrum exercitus inſolens.

CAP. 2.

De monte Palatino.

d Vid. Anton. Conſtantium in Ouid. Faſt. lib. I. TOuching the name of *Rome*, from what occaſion the citie ſhould bee ſo denominated, diuers authors conceit diuerſly. [d] Some are of opinion, that this citie was built long before *Æneas* came out of *Troy*, & was then called by the

the Latines *Valentia*, which was a name of ſtrength, whence *Evander* comming into *Italy*, called it *Roma* from ῥώμη *Robur*. Others ſay, it was ſo called from *Aſcanius* his daughter, whoſe name was *Roma*. But it is agreed vpon by moſt Writers, that the Founders were *Romulus* & *Remus*, & from *Romulus* it was called *Roma*, not *Romula*, becauſe the diminitiue, *Romula*, might ominate leſſe proſperitie thereunto. [e] Some ſay, that they built it in forme of a quadrangle, vpon one only hill, called *Mons Palatinus*. [f] Others ſay, that *Fabius* left *Rome* as it was firſt built, with the fields thereof painted in the forme of a bow, the riuer *Tiber* being the ſtring thereof. Vpon this *Palatine* hill, was alwaies the ſeate of the Romane Empire, which from the hill took the denomination of a Pallace: & hence all ſtately buildings which we call Pallaces, took their name, *Palatia*. This hill had his firſt appellation [h] *Balatinus*, *a balando*, from the bellowing of cattle paſturing there in former times, and afterwards the firſt letter being changed, it was called *Palatinus*, by the figure ἀντίστοιχον. *Virgil* ſeemeth to be of opinion, that the hill was called *Palatinus*, by *Evander* in remembrance of his grandfather, whoſe name was *Pallas*, according to that

——— *Poſuere in montibus vrbem,*
Pallantis proavi de nomine Pallanteum. *Virg. Æneid. li.* 8.

In proceſſe of time ſixe other hils by ſeuerall Kings of *Rome* were added; whereby the citie, and the *Pomarium*, that is, the territories of the city were enlarged: and *Rome* called *Vrbs ſepticollis*, *id eſt*, the city vpon ſeuen hils.

Sed qua de ſeptem totum circum ſpicit orbem
Montibus, imperij Roma deúmq́; locus. *Ouid. Triſt. lib.* 1. *Eleg.* 4.

Vpon this *Palatine* hill alſo ſtood the *Aſylum*, or ſanctuarie of refuge, which *Romulus* opened [i] in imitation of *Cadmus*, who at the building of *Thebes* was ſaid to haue opened a ſanctuarie of refuge, whither whatſoeuer malefactor could eſcape, were he bond or free, he was not to be puniſhed. It was much

e Roſin. ant. lib. 1. cap. 2.
f Sigon. de iur. Rom. lib. 1. cap. 2.
g Roſin. Ant. lib. 1. cap. 4.
h Vid. Seruium in Aeneid lib. 8.
i Alex. Gen. dier. l. 3. c. 20. vbi plura lectione digne de Aſylis.

much like vnto a cuſtome of the people in the Citie *Croton*, whoſlying vnto the altars of their Gods, obtained the forgiueneſſe of faults not voluntarily committed. Whence theſe two phraſes are expounded alike, *Ad te tanquàm ad Aſylum*, and *Ad te tanquàm ad aram confugimus, id eſt*, wee flie vnto thee as our onely refuge.

Cap. 3.

De monte Capitolino.

THis hill was famous for three names: it was called *Capitolium, mons Tarpeius*, and *mons Saturni*. It was named *Saturnes* hill [k] from the heathenish God *Saturne*, who vouchsafed to vndertake the protection of that place. It was named the *Tarpeian* hill [l] from *Tarpeia* one of the Veſtall Nuns, daughter to the chiefe keeper of the Capitol, (this hill beeing the caſtle of defence for the whole towne.) For this *Tarpeia* betrayed the Capitoll into the enemies hands, bargaining to haue the golden bracelets vpon her enemies left hands, for this her treaſon Now the enemies when they were admitted in, did caſt not their bracelets alone, but their bucklers alſo vpon her, through the weight whereof ſhee was preſſed to death: vpon which occaſion the whole hill was afterward called, the *Tarpeian* mount; but more principally a certaine rocke of that hill called *Tarpeia rupes*, from whence malefactours were ſundry times tumbled headlong.

The ſame was likewiſe called the *Capitoll*, becauſe when the foundation of a certaine Temple, built in the honour of *Iupiter* was laide; a mans head, full freſh and liuely, as if it had bin lately buryed, [m] yea hot blood iſſuing out of it, was found there. [n] *Arnobius* ſaith, that the name of this man being aliue was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

k Roſin. antiq. lib. 1 ca. 5.

l Plutarch. in Romulo.

η 2.

η 3.

m Dion. Halicar. lib. 4.

n Lipſius de magnitud. Rom. cap. 5.

Cap.

Cap. 4.

De colle Quirinali.

THis hill beeing in former time called *Agonalis*, then began to bee called *Quirinalis*, when certaine *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce beeing made betweene the *Romanes* and the *Sabines*:) though some would therefore haue it named *Quirinalis*, becauſe there was a Temple erected in the honour of *Romulus*, called alſo *Quirinus*. It was called in the time of the Emperours *mons Caballus*, that is, the horſe-hill, taking its denomination from two marble ſtatues of *Alexander* taming his horſe *Bucephalus*: which ſtatues *Conſtantine* the Emperour brought to *Rome*, and placed them in the middeſt of certaine bathes, which he made vpon this hill. There doe appeare in this hill three riſings, or hillockes; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of [o] *Roſinus*.

o Antiq. Rom. lib. 1. cap. 6.

Cap. 5.

De monte Cœlio.

THis hill hath his name from a certaine [p] Captaine of *Hetruria*, which aſſiſted *Romulus* againſt the *Sabines*. On this hill, King *Tullus Hoſtilius* erected ſtately edifices, which for a time ſerued as his palace: but afterward they became the chiefe Councell-houſe, whether the *Senators* aſſembled themſelues, for the determining of State-matters: and becauſe this *Curia*, did farre exceed all others, therefore Authors many times vſe this word [q] *Curia* ſimply, without any adiunction, to ſignifie *Curiam Hoſtiliam*, as if there were no other. It much reſembleth our Priuy-councel-

p Alex. Gen. dier. l. 6. c. 11.

q Alex. Gen. dier. l. 1. c. 16.

Chamber, in reſpect that none might ſit there, but onely *Senators*; whereas in the court-houſe, which *Pompey* built (being therefore called *Curia Pompeia*) [r] other City Magiſtrats were admitted amongſt the *Senators*: and in *curiâ Iuliâ, id eſt*, the Court-houſe which *Iulius* made, were examined [s] forreigne matters, as Embaſſages: but *curiâ Hoſtiliâ* domeſticall matters onely were treated of, and that onely by the *Senators*. [t] At this preſent time, this hill is beautified with many Chriſtian Churches, as the Churches of S. *Stephen*, S. *Paul*, and S. *Iohn*, our Sauiours Hoſpitall, &c. [u] It was alſo called *Mons Querculanus*, from the abundance of oakes growing there.

r Roſin. antiq. lib. 7. c. 6.

s Roſin. Ibid.

t Munſter. in ſua Coſmog. lib. 2. cap. 9.

u Alex. Gen. dier. l. 6. c. 11.

Cap. 6.

De monte Eſquilino.

THis hill was ſo named *quaſi* [x] *excubinus ab excubijs, id eſt*, from the night watching, which *Romulus* did vndertake vpon that, ſomewhat diſtruſting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillockes named, *Ciſpius*, *Oppius*, and *Septimius*.

x Roſin. antiq. l. 1. cap. 8.

Cap. 7.

De monte Auentino.

THe *Auentine* mount, tooke his name [a] from *Auentinus*, a certaine King of *Albanum*, which was there buried. Vpon this hill ſtood *Hercules* his Altar, and certaine Temples conſecrated to *Iuno*, *Diana*, *Minerua*, *Lucina*, and *Murcia, id eſt*, *Venus*: whench the hill hath ſometimes bene called *Diana* her hill, and *mons Murcius*. Vpon [b] this Mount, *Remus* would haue built *Rome*, and therefore it was called *Remonius mons*: but ſince, it hath bene called *Mons Rig-*

a Alex. Gen. dier. l. 6. c. 11.

b Plutarch. in Romulo.

Rignarius, as it appeareth by *Plut.* in the ſame place. It had moreouer the name of the *Holy Mount*, being called in Latine, *Mons ſacer*.

CAP. 8.

De monte Viminali.

BEcauſe of the abundance of wicker twigs, which did grow vpon this hill, it was called *Mons viminalis*, *vimen* ſignifying a twigge, or ozier. I am not ignorant, that ſome would haue this hill to be named *Viminalis*, from *Iupiter Vimineus*, whereas *Iupiter* himſelfe was named *Vimineus* from this hill, becauſe he had here many altars erected in the honour of him. Both this hill, and *Iupiter*, were called *Fagutales*, from *ſylua fagea*, *id eſt*, a cops of Beech-trees, which did grow thereupon. *Vid. Roſin. Antiq. lib. 1. cap. 9.*

CAP. 9.

De tribus collibus adiectis.

THree [c] other hills there were, which in proceſſe of time were added vnto the Citie; which partly becauſe they were not included within the *Pomarium* ſo ſoone as the other, but chiefly becauſe they were not of ſuch note, therefore *Rome* retained the name *Septi-collis*. The firſt of thoſe hills was called *Collis hortulorum*, *id eſt*, the hill of Gardens, ſo tearmed becauſe of the many gardens neere adioyning. [d] Here was the *Cirque*, or the ſhew place of the ſtrumpet *Flora*, which made the people of *Rome* heire to thoſe goods which ſhee had gotten by proſtituting her body to young Gentlemen, leauing alſo a certaine ſumme of money to procure a celebration of her birth day: which becauſe of her infamie, the people ſhaming to doe, they feigned her to bee the

c Roſin. Ant. lib. 1. cap. 11.

d Barthol. Lacomus in Verrin. Orat. 7.

the Goddeſſe of flowers, and that ſhe muſt be firſt appeaſed, by ſports, and plaies, performed in the honour of her, before the trees and fruits of the earth would proſper; [c] and that they might gaine the better credit vnto this their fable, they adde further, that ſhee was once called *Chloris*, and was married vnto *Zephyrus*, from whom by way of dowry ſhee receiued power ouer the flowers. The ſecond was called *Ianiculus*, from *Ianus* that two faced God: who, as writers teſtifie, was there buried. It did lye beyond the riuer *Tiber*, and hath now changed its name, beeing called from the yellow ſands, *Mons aureus*, and through negligence of the Printer, *Montorius*, *ideſt*, the Golden Mountaine. The third was famous for the many diuinations, and propheſies, vttered vpon it, and thence was it named *Vaticanus*, from *Vaticinium*, a fore-telling. [f] It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

[c] Lactant. de falſ. relig. lib. 1. cap. 20.

[f] Munſter in ſua Coſmog. lib. 2. cap. 8.

CAP. 10.

De Foro Romano

Forum hath diuers acceptations: ſometimes it is taken for a place of negotiation, or marchandiſing, which we call a **market place**: and beeing taken in this ſenſe, it hath commonly ſome adiectiue ioyned with it, as *Forum boarium*, the beaſt market, *Forum piſcarium*, the fiſh market, *Olitorium forum*, the herb market: othertimes it is taken for any place, whereſoeuer the chiefe gouernour of a Prouince doth conuocate his people together, there to giue iudgement, according to the courſe in law: whence a man is ſaid, *Forum agere*, [g] when hee keepeth the **Aſſiſes**, and *Forum indicere*, when hee appointeth the place where the **Aſſiſes** ſhall bee kept. Thirdly, it is taken for a place, where controuerſies in law are iudicially determined, and Orations are had vnto the people. At firſt, of this ſort were only three, *Romanum Iulium*,

[g] Hubertus in Cic. lib. 3. ep. fam. 6.

um, and *Augustum*, as is clearly euidenced by that of *Martial*.

Atque erit in triplici per mihi nomo foro.

Afterward the number was increased to sixe distinct *Forums*: one called *Forum Iulium*, because it was built by *Iulius Cæsar*. A second was added by *Octauius Augustus*, called therefore *Augusti Forum*. The third *Forum*, was founded by *Domitian* the Emperour: but by reason of his sudden death, *Nerua* had the finishing thereof. It had the name of *Forum Transitorium*, the transitorie *Forum*, because there was *Transitus*, *id est*, a way or passage through it into three seuerall market places. The same *Martial* calleth sometimes [h] *Forum Palladium*, because in the middle thereof a Temple was erected in the honour of *Minerua*. A fourth was added by the Emperour *Traianus*, wherein was erected a stately columne or pillar 140. cubits high, hauing all the noble exploits performed by *Traianus* engrauen in it: another was called *Salustij Forum*, because *Salust* bought it with diuers Gardens adioyning, which since haue beene called *horti Salustini*. The last *Forum*, which indeede was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency the *Forum*, as if there were no other *Forum*: where we must vnderstand, that as often as *Forum* is vsed in this latter sense, namely for a pleading place, it is so vsed figuratiuely, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely that Chappell, or great building, which they called *Rostra*. [i] Round about this *Forum Romanum*, were built certaine trades-mens shoppes, which they tearmed *Tabernæ*, and also other stately bnildings, called *Basilicæ Pauli*. Here was the *Comitium*, or hall of iustice; the *Rostra*, *id est*, the Oratours Pulpit; *Saturnes* sanctuary, or the common treasure house; and *Castors* Temple: of all which in their order.

h Lipsius de magnitud. Rom. l. 3. c. 7.

i Henr. Salmuth. in poncirolli lib. rerum deperdit. cap. de basil. & taber.

CAP. 11.

De Baſilicis.

Baſilicæ were vpper buildings, of great ſtate and much coſt, being ſupported with *Pilæ, id eſt*, flat-ſided pillars; and having vnderneath them walkes, much reſembling our Cloiſters, ſaving that the *Intercolumnia*, or ſpace betweene the pillars lay open vnto the very ground. That they were vpper buildings may bee collected by the cuſtome of many men, which were wont to walke vnder theſe Baſilicall buildings, and therefore were called, *Subbaſilicani* by *Plautus*. The vſe of theſe were principally for the [k] Iudges to ſit in iudgement: but in their abſence it was lawfull for Marchants to deale in their buſineſſes. Thoſe of chiefe note were three, thus named, *Pauli, Porcia*, and *Iulia*.

[k] Sigon. de iudiciis lib. 1. cap. 28.

CAP. 12.

De Comitio.

Comitium [l] was a part of the *Forum Romanum*, being a great large hall of iuſtice, which for long time was open at the top, having no couering, and for that reaſon the aſſemblies were often diſſolved in rainy, or vnſeaſonable weather. In it ſtood the *Tribunall*, being a place erected vp on high in forme of our pulpits, but many degrees larger, and in the middeſt thereof, the *Sella Curulis, id eſt*, the Iuory chaire, from whence the chiefe Magiſtrate adminiſtred iuſtice; other inferiour Magiſtrates ſitting on benches on each ſide, which were called *Subſellia*, becauſe they were lower then the Tribunall. Thoſe which ſate vpon theſe benches had power *cogniſcere*, but not *pronuntiare*; much like to our Iuſtices at the Aſſiſes, which may examine or informe againſt a male-

[l] Sig. de iud. lib. 1. cap. 7.

malefactor, but not condemne him. Where wee may obſerve, the difference betweene *Comitium*, ſignifying ſuch an edifice, or building, and *Comitia*, ſignifying the Roman aſſemblies: both being called *à coeundo*. This hall was many times called by the name of *Puteal Libonis*. The reaſon of which name is rendred thus by [m] ſome. That in this *Comitium*, *Attius Navius* did once with a razor cut in two a whetſtone, and in memory thereof, his ſtatue was erected, with an hat vpon his head: for *Puteal*, properly doth ſignify the cover of a Well, but in a large acception, it ſignifieth a broad brimmed hat, as *Caelius Rhodiginus* noteth in the ſame place. [n] *Cicero* toucheth this. *Cotem illam, & novaculam defoſſam in Comitio, ſuprâq; impoſitum Puteal accepimus.* But why it ſhould bee called, *Puteal Libonis*, is yet doubtfull, except happely *Libo* was the firſt erecter of this ſtatue. That it was a common court, and knowne place of iuſtice, *Horace* witneſſeth. *Roſcius orabat, ſibi adeſſes ad pute alcras.*

m Cæl. Rhod. lib. 10. c. 17.

n Cic. de divinat.

Cap. 13.

De Roſtris.

NExt to the *Comitium* ſtood the *Roſtra*, a goodly faire edifice, in manner of the body of a Cathedrall Church. In it ſtood an Oratours Pulpit, deckt and beautified with the ſtemmes of many ſhips, which the *Romans* got from the people of *Antium*, in a memorable battle vpon the Sea: And [o] hence from thoſe ſhip-beakes, called in Latine *Roſtra*, hath this place taken its name. It may bee Engliſhed, the great Oratory, or place of Common-plea.

o Hubert. in Cic. ep. lib. 8. ep. fam. 1.

Cap. 14.

De templo Caſtoris.

ANother part of the *Forum* was a ſanctuarie built in the honour of *Caſtor* and *Pollux*: the[p] reaſon thereof was before they appeared vnto the *Romans* in the Latine warre in the likeneſſe of two Angels ſent from heauen to lead the *Roname* army, and to aſſiſt the *Romans* againſt the *Latines*: who being vanquiſhed, they ſuddenly were departed out of the field, none knowing how, and even in the ſame moment they appeared vpon their ſweating horſes vnto the *Roman* Citizens in the *Forum*, who taking them for ſouldiers, demanded what newes they brought home from the campe: they replyed, that the *Romans* were conquerours: which newes being delivered, they ſuddenly vaniſhed, & were ſeene no more. Vpon this occaſion did *A. Poſthumius* being at that time *Dictator*, build a Temple in that place of the *Forum*, where they were ſeene in honour of them both. Although in the after Ages, it had the name onely of *Caſtors* Temple: Whence aroſe the ieſt of *M. Bibulus*, againſt his fellow Conſul *Iulius Cæſar*, ſaying; it fared with him, as it did with *Pollux*; *id eſt*, as this Temple which was erected in the honour of both the brethren, carried the name onely of *Caſtors* Temple; ſo the great expences in exhibiting ſhewes in the time of their Conſulſhippe, though they were deeper on *Bibulus* his ſide, yet *Cæſar* carried away all the thankes, and credite. Inſomuch that the people being wont to ſubſcribe the names of both Conſuls at the end of their Deedes, and Charters, for a remembrance of the yeere: that yeere they wrote, Such a thing done; not *Bibulus* and *Cæſar*, but *Iulius* and *Cæſar*, being Conſuls.

[p] Suet. in Iulio Cæſare.

Cap.

Cap. 15.

De ede Saturni.

Saturnes ſanctuarie [q] was the common treaſure houſe, wherein the ſubſidie money which the Commons paide vnto the treaſurers called *Quæſtores*, was to bee laide vp: whereof divers coniecture diverſly. *Alexander Neop.* [r] ſaith, that *Saturne* found out the vſe of braſen money: and therefore this Temple might bee thought the fitteſt place for the treaſury. *Plutarch* thinketh rather, that the making of the treaſurie in that place did allude to the integrity of the time, wherein *Saturne* raigned, beeing the worlds golden Age. [s] But the moſt received opinion, is the ſtrength of the place, whereby it was the ſafer from theeves. The Temple by reaſon of the vſe it was put vnto, was called *ærarium* from *æs, id eſt*, Braſſe: which name now is common to all treaſure houſes; for that the firſt money vſed by the *Romans* was of that mettall, vntill the yeere of *Rome*, 485. (as *Pliny* witneſſeth lib. 3. cap. 33.) [t] Some are of opinion, that before the vſe of braſſe, they made money of leather: whence *Numa Pompilius* is ſaide to haue given leather money in a dole vnto the people. Touching their order obſerved in the treaſurie, wee muſt vnderſtand that their care in providing againſt ſudden dangers was ſuch, that they laide aſide the twentieth part of their receipts, which they [u] called *aurum viceſimarium*, *Inceſimarium*, and *Cimiliarchium*, into an inner Chamber, or more ſacred roome, named in Latine *ærarium ſanctius*. [x] Wee may reade alſo of a third treaſury called *ærarium militare*, wherein *Auguſtus* had appointed that the twentieth part of certaine legacies ſhould be laide vp to defray charges in extraordinary wars: where it lay ſo priviledged, that it was a capitall crime to vſe any of it, but in extreame, and deſperate neceſſity. Notwithſtanding, howſo-

[q] Plutarch. in Publicola.

[r] Alex. Gen. dier. l. 4. c. 15.

[s] Alex. Gen. dier. l. 2. c. 2.

[t] Alex. Gen. dier. l. 4. c. 15.

[u] Alex. Gen. dier. l. 2. c. 2.

[x] Servius. l. 2. Virg. Georg.

ever it was vſed as a treaſure houſe, [x] yet divers Authors teſtifie, that the Acts of their Senate, the bookes of Records, togeher with ſuch bookes, as were for their immeaſurable bigneſſe, called *libri Elephantini*, wherein all the names of their Citizens were regiſtred, and alſo their militarie Enſignes, were contained there. [y] And from thoſe ſtatute bookes, called *tabulæ publicæ*, this treaſury was alſo called *Tabularium*, becauſe they were laid vp there.

x Alex. Gen. diet. l. 2. c. 2.

y Plutarch. in ſuis problemat. vid. Franc. Sylvium in Catilinatiam. 4.

Cap. 16.

De campo ſcelerato.

Campus ſceleratus, the field of execution, [z] lying within the Citie, ioyned to the gate *Collina*. It was the place, where the Veſtall Nuns, if they were deflowred, ſuffered puniſhment after this manner. There [a] was made a Vault vnder the earth with a hole left open aboue, whereby one might go downe; and within it there was a little couch with a burning lampe, and a few victuals: whither the defiled Votary was to bee brought, through the market place, in a litter ſo cloſed vp with thicke leather, that her mournings might not bee heard to the moving of pittie. Shee beeing thus brought to the place of execution, was let downe by a ladder into the hollow Caue, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kinde of death, was becauſe they thought in not fit, that ſhee ſhould bee burnt with fire, which kept not the ſacred fire with greater ſanctity. And it was thought vnlawfull to puniſh them by laying violent hands on them, becauſe they had in former time ſerued in ſo holy a function.

z Munſter, in ſua Coſmog.

a Plutarch, in Numa.

Cap.

CAP. 17.

De campo Martio.

THe [b] *Campus Martius*, otherwise called *Tiberinus*, (becauſe it was neere the riuer *Tiber*) was giuen vnto the Romane people, by *Caia Tarratia*, a Veſtall Virgin: but *Tarquinius Superbus*, the laſt King of *Rome*, did take it from the people, converting it to his owne priuate vſe: inſomuch that hee ſowed corne there; which when he was depoſed, the *Romans* did caſt into the riuer *Tiber*, iudging it vnfit that any man ſhould reape any commodity from ſo holy a ground. In proceſſe of time, the ſheaues of corne being ſtopped in a ſhallow foard of the Riuer, became firme ground, & was called, *The holy Iland*, or *Æſculapius his Iland*. And preſently after the expulſion of *Tarquinius*, this *Campus Martius* was reſtored vnto its former vſe. Beſide the naturall pleaſantneſſe of the place it ſelfe, it was beautified with many ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewiſe with divers images of well deſerving men. Hither did the younger ſort of *Romanes* come to exerciſe Chiualry, namely the horſe-race, the foot-race, wreſtling, fencing, caſting the bowle, the ſledge, the dart, vſing the ſling, the bow, vaulting, with ſuch like: and vpon this occaſion it was dedicated to *Mars*, and called by *Strabo*, the **Romans great ſchole of defence**. [c] The manner of vaulting, was in riding, to leape from one horſe-backe vpon another, their cuſtome being for their horſe-men in warre, to leade a ſpare horſe in their hands, beſides that whereon they did ride, that when the one did ſweate, they leaped vpon the others backe; *à deſiliendo*, thoſe horſes were called *Equi Deſultorij*: whence an vnconſtant, wavering, and vnſetled minde, which *Seneca* calleth *Volaticum ingenium*, others haue called *Deſultorium ingenium*. In this field were men of beſt note burned, when they died. Here were the Kings, and other magiſtrates,

[b] Roſin. Antiq. lib. 6. cap. 11.

[c] Cœl. Rhod. li. 21. c. 29. 30.

giſtrates at firſt created. In this d field of *Mars* alſo was a place at firſt railed, like a ſheep-pen, called therefore *Ouilia*, or *ſepta*; but afterwards it was mounted with Marble ſtone, beautified with ſtately Walkes and Galleries, and alſo with a tribunall, or ſeate of iuſtice, within which precinct the people oftentimes aſſembled to giue their ſuffrages toward the election of Magiſtrates. The meanes of aſcending vp vnto theſe *Ouilia* was not by ſtaires, but by many bridges made for that time; every pariſh in the aſſembly of pariſhes, and every tribe or Ward in the aſſembly of the tribes, & everie hundred in the aſſembly of Centuries having his Bridge: whence this Prouerbe was occaſioned, *de ponte deijciendus, id eſt*, he is to be barred from giuing his voyce. e Theſe bridges were not made ouer any riuer, but ouer the dry land: whence men were ſaid to be caſt, *Non vt periclitarentur de vita, ſed ne ſuffragarentur in Comitijs.*

d Seruius in Bucol. eclo. 1.

e Ioan. Saxonius in Orat. pro S. Roſcio.

Cap. 18.

De Circo Maximo.

Amongſt other places where the Romanes exhibited their Playes vnto the people, the moſt remarkeable was the great Circque, or ſhew-place, called in Latine *Circus Maximus*. It was a large peece of ground, lying neere that part of the *Aventine* Mount, where *Dianaes* Temple ſtood. It was built by *Tarquinius Priſcus*, with diverſe galleries round about it, from whence the *Senators* & Gentlemen of the City did behold the running with great Horſes at liſts, the fire-workes, tumbling, the bayting, and chaſing of wilde beaſts, &c. In former time, all did ſtand on the ground, being ſheltred from the raine by the help of boards vphelde with forkes in manner of houſe-pentices: and this cuſtome continued vntill the aforeſaide *Tarquinius* erected thoſe Galleries, called *Fori*, making thirty diſtinctions of them

them, allotting every Ward or companie their ſeverall quartets, all the ſeates being able to containe one hundred fiftie thouſand parties. [f] Vnder theſe places were Cels, or Vaults, where women did proſtitute their bodies, and would buy ſtolne goods, and for this reaſon, *Horace* calleth it *Fallacem circum, id eſt*, the deceitfull ſhew-place. There was at the one end of the circque certaine barriers, *id eſt*, places barred, or railed in at which place the horſes beganne the race; and at the other end was the marke, whether the horſes ranne: it was called in Latine *Meta*, and the barriers *carceres, à coercendo*. Whence we ſay, *à carceribus ad metam, id eſt*, from the beginning to the ending.

[f] Roſin. antiq. lib 5. c. 4.

Cap. 19.

De Theatro.

THe **Theatre** [g] hath his name from the Greeke verbe θεάω θεῶ, *id eſt*, to behold: becauſe the people flocked thither, to behold playes and ſhewes exhibited to them. The cuſtom [h] firſt ſprang from the ſheepeheards, who leading a contemplatiue life, were wont to compoſe Dialogues in meeter, and at their leaſure, to recite them vnder the trees preſſed downe in forme of an Arbor; whence this Theatrall tearme θέατρον, hath bene derived from θέα, a ſhadow, but afterward, learned Poets compoſed Comedies, and Tragedies, which were publiquely acted in the Citie vpon a Stage: and although at the firſt it was counted infamous to frequent them, yet afterwardes the Senators themſelues, yea the Emperour, and all the cheife of *Rome* aſſembled thither, [i] Neither for a long continuance were there any ſeates buſilt, but Commons, and Nobles, promiſcuouſly one with another, all ſtood on the ground: inſomuch that thoſe which ſtood behinde, raiſed vp places with turfes of earth, which gaue the people occaſion to call the place betweene thoſe

[g] Ioach. camerar. in orat. pro L. Flacco. [h] Servius. l. 2. Virg. Georg.

[i] Alex. Gen. dier. l. 5. c. 16.

turfes and the ſcaffold, *Cavea, id eſt*, a caue or denne: yea the people that ſtood there, were ſo called frō the place. Though the Theatre be now taken onely for the ſtage; yet then by it was vnderſtood the whole roome, where theſe playes were Acted: and it had divers parts, ſome proper to the Actors, ſome to the ſpectators. To the Actors firſt belonged the *proſcenium, id eſt*, the houſe, whence the Players came: where they apparelled themſelves, though ſometimes it is taken for the ſcaffold, or ſtage it ſelfe: ſecondly, the *pulpitum, id eſt*, the ſtage or ſcaffold, vpon which they Acted: and thirdly, the *ſcena*, that is, the partition which was cōmonly made of wood, not of hangings. Now that they might change their ſcene according to their pleaſure, they made it [k] *Verſatilem, id eſt*, ſo that with engines, it might vpon the ſudden bee turned round, & ſo bring the pictures of the other ſide into outward appearance: or otherwiſe *ductilem, id eſt*, ſo that by drawing a ſide of ſome wainſcot ſhuttles (which before did hide the inward painting) a new partition might ſeeme to be put vp: and I thinke becauſe thoſe ſheepheards did Act no more at a time, then one of our *Scenes*, hence haue wee diſtinguiſhed our playes into ſo many parts, which we call *Scenes*. The places which were proper to the ſpectators, were diſtinguiſhed according to their degree and ranke; for the remoteſt benches were for the **Commons**, and called *popularia*; the next for the **Knights** and **Gentlemen** of *Rome*, and called therefore *Equeſtria*; the others wherein the **Senators** did ſit, were commonly called *Orcheſtra*: this may bee collected out of [l] *Lipſius*, [m] *Cœl. Rhodiginus* ſaith, that the *Orcheſtra* was that place ioyning to the ſtage, where the *Chorus* ſpake to the people at the end of every Act. Divers Authors are of *Cœl. Rhod.* his opinion, deriving the word *Orcheſtra*, from the Greek ὀρχέομαι, to dance: but it ſeemeth more probable, to haue bin a peculiar place allotted for the Senators. *Iuv. Sat. 3.*

Æquales habitus illic, ſimilemq́, videbis
Orcheſtram, & populum — id eſt, optimates et plebem. The whole

k Servius. l. 3. Virg. Georg.

l Lipſius de amphith. c. 14.

m Cœl. Rhod. lib. 8. c. 8.

whole building made for entertainment of the ſpectators reſembled a triangle, or wedge, ſharpe towards the ſtage, and broad behinde: whence the whole was denoted by the name *Cuneus*; when *Cuneus* ſignified any particular place about the Theatre, then by it we are to vnderſtand that which formerly we called *popularia*, the place for the meaner ſort of people, [n] whence when we would point out a baſe and ignoble perſon, *Inter Cuneos reſidere dicitamus*. There was alſo another kinde of ſcaffold built qutie round, made as it were of two Theatres ioyned together, it was called *Amphitheatrum*, and differed from the Theatre, only as the full moone doth from the halfe, or a compleate rundle, from a ſemi-circle: it [o] reſembled an egge. Vpon this kinde of ſcaffold did the Maſters of defence play their prizes, and wilde beaſts were baited, [p] *In Amphi-theatro gladiatorij ludi, & concluſarum ferarum venationes exhibebantur*. The *Amphitheatre* it ſelfe in the iudgement of [q] *Lipſius* was tearmed *Cavea, ab interiore parte quæ concava erat*: And *Arena* becauſe it was ſtrewed with gravell and ſand, that the blood of ſuch as were ſlaine in the place, might not make the place too ſlippery for the Combatants. Hence commeth that phraſe, *In arenam deſcendere*, to go into the field: and the Combatants were thence called *Arenarij*. Here we muſt note, that howſoever the *Amphitheatre* was ſtrewed commonly with common and ordinary gravell, yet ſometimes in their extraordinary ſhewes, that gravell was covered, & as it were new coated, with the ſcrapings & duſt of ſome extraordinary ſtones, to adde the greater luſtre vnto it: thus much [r] *Plinie* intimateth. *Invenêre & alium vſum eius lapidis, in ramentis quoq;, Circum maximum ſternendi, vt ſi in commendatione & candor*. Againe, ſometimes the hollow places or dennes vnder the *Amphitheatre*, in which the wilde beaſts were kept, and likewiſe men to be committed with wilde beaſts, out of which theſe were let looſe by the lifting vp of trappe doores to be hunted or bayted vpon the *Amphitheatre*, were called *Cavea*. For we muſt

[n] Cœl. Rhod. lib. 8. c. 8.

[o] Turneb. adverſ. lib. 5. c. 6.

[p] Hoſp. de origi. feſt.

[q] Lipſ. de Amphith. c. 2. & 3.

[r] Plin. lib. 36.

know that the *Amphitheatre* was full of hollow paſſage for many reaſons, as for the convenient keeping of wilde beaſts, and beaſtiaries; ſo ſometimes for the better conueying of waters thither, by the meanes whereof f reall ſhippes and ſea-skirmiſhes were oftentimes exhibited vppon the *Amphitheatre*.

f Sueton in Domitian.

Cap. 20.

MOreover for the better vnderſtanding of claſſical Authors, it will not bee impertinent to point at the generall names, by which the religious places were called: & to declare the proper acception of each name; the names being theſe, *Templum*, *Fanum*, *Delubrum*, *Ædes ſacra*, *Pulvinar*, *Sacrarium*, *Lucus*, *Scrobiculum*, *Ara*, *Altare*, *Focus*.

De Templo.

a Roſin. Ant. l. 2. cap. 2.

This word *Templum* doth ſometime ſignify thoſe a ſpaces and regions in the ayre and earth, which the *Augures* did quarter out with their crooked ſtaffe at their Soothſaying.

c Lilius Gyrald. de diis gentil ſyntag. 17.

2 Sometimes it doth ſignifie a Sepulcher or graue, c becauſe in old times, men did ſuperſtitiouſly pray, and worſhip at the tombes and monuments of their deceaſed friends, as if it had bene in *Temples* or *Churches*, & in this ſenſe may *Virgil* be vnderſtood:

d L. 4. Aenead v. 457.

d *Præterea fuit antiquo de marmore Templum,*
Coniugis antiqui.

e Fr. Sylvius in or t. pro Muræn.

3 Moſt commonly it doth ſignifie a **Church**, or *Temple*: in which ſenſe as often as it is vſed, it is e ſaid a *templando*, from beholding; becauſe when we be in the Church by lifting vp our hearts by a divine contemplation, we do, as it were, behold the great Maieſty of God

De Fano.

It is alſo called *Fanum*, *à fando*, from ſpeaking: not from the ſpeaking of the Prieſt; but becauſe the people do there ſpeake

ſpeake vnto God, and God againe to the people.[f] Some are of opinion, that *Fanum* in propriety of ſpeech, ſignifieth the Church-yard, or court before the Temple: *Templum* ſignified the edifice, or Church built. [f] Turneb. adverſ. lib. 3. c. 9.

De Delubro.

Thirdly, a Church was called, *delubrum Synecdochicῶς* becauſe it was the principall part of the Church, namely, the place where their Idol God ſtood; & it was called *delubrum*, from *Deus*: [g] as we call the place, where the candle is put, *candelabrum* from *candela*. As concerning the outward forme of the Churches, ſome were vncouered, becauſe they counted it an hainous matter to ſee thoſe Gods confined vnder a roofe, whoſe doing good conſiſted in being abroad; other-ſome covered, ſome round, ſome otherwiſe: but within they much reſembled our great Churches. They had their *pronaon*, or Church-porch, whereabouts they were wont to haue the image of the beaſt *Sphinx*, which was ſo famous for his obſcure riddles: ſo that by this image was ſignified, that the Oracles of the Gods, which were treated of within the Church, were darke and myſticall. They had certaine walkes on each ſide of the body of the Church, which they called *porticus*: and in theſe places it was lawfull for them to marchandize, make bargaines, or conferre of any worldly buſineſſe; as likewiſe, in the *baſilica*, or Body it ſelfe. But their Quire called *Chorus*, was counted a more holy place, ſet a part onely for diuine ſeruice. The manner of hallowing it, was as followeth. [h] When the place where the Temple ſhould bee built, had bin appointed by the Augures (which appointing, or determining the place they called *Effari templa, & ſiſtere Fanø*) then did the party, which formerly in time of need vpon condition of helpe from the Gods had vowed a Temple, call together the *Aruſpices*, which ſhould direct him in what forme the Temple ſhould be built: which being knowne, certaine ribbands, and fillets, were drawne about the *area*, or plot of ground, with flowers, and garlands ſtrewed vnder- [g] Roſin. antiq. l. 2. cap. 2. [h] Roſin. Ibid.

neath, as it was probable to diſtinguiſh the limits of this ground now to be hallowed. Then certaine ſouldiers marched in with boughes in their hands, and after followed Veſtall Nuns leading young Boyes, and Maides in their hands, who ſprinkled the place with holy-water. After this followed the Prætor, ſome Pontifie going before, who after the *area* had beue purged by leading round about it, a ſow, a ramme, and a bull; ſacrificed them and their intrals being laide vpon a turfe, the Prætor offered vp prayres vnto the Gods, that they would bleſſe thoſe holy places, which good men intended to dedicate vnto them. This being done, the Prætor touched certaine ropes, wherewith a great ſtone being the firſt of the foundation was tyed: together with that other chiefe Magiſtrates, Prieſts, and all ſorts of people did helpe to pluck that ſtone, and let it downe into its place, caſting in wedges of gold, and ſiluer, which had never bene purified, or tryed in the fire. Theſe ceremonies being ended, the *Aruſpex* pronounced with a loud voice, ſaying, *Ne temeretur opus, ſaxo, auróue in aliud deſtinato, id eſt*, let not this worke bee vnhallowed by converting this ſtone, or gold, into any other vſe.

De Æde ſacrâ.

Fourthly a Church was called *Ædes ſacra*, an holy houſe, becauſe of the ſacrifices, prayers, and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerved) every holy houſe was not a Church. For the proper note of diſtinction betweene a Church, & a religious houſe was this: that a Church beſide that it was dedicated vnto ſome God, it was alſo hallowed by the Augures, without which hallowing, the edifice was not called a Church, but a religious houſe: of which ſort was the Veſtall Nunnerie, and the common treaſurie, called *Ædes Saturni*. We may adde hereunto the word *Pulvinar*, [i] which doth often ſignifie a Church: the reaſon being taken from a cuſtome amongſt the *Painims*, who were wont in their Churches to make certaine beds in the honour of their Gods, and thoſe beds they called *Pulvinaria*,

[i] Barthol. Latomus in Philippic. 4. am.

Pulvinaria, from *pulvis*, becauſe they were filled with duſt or chaffe.

De Sacrario.

Sometimes[k] *Sacrarium* ſignifieth a Temple, though properly it ſignifieth a Sextry or Veſtry, *nempe* [l] *Sacrorum repoſitorium.*

k Cic. pro Milone.
l Fr. Sylvius in orat. pro L. Murzn.

De Lucis.

Neere vnto divers Temples, ſtood certaine Groues dedicated to ſome of the Gods: they were called in Latine *Lucus à non lucendo*, as divers ſay, by the figure *antiphraſis*. But others are of a contrary opinion, giving it that name, becauſe of the exceeding light it had in the night time, by reaſon of the ſacrifices there burnt.

De Scrobiculo, Arâ, & Altari.

The places vpon which they ſacrificed, either in their religious houſes, or their Groves, were of three ſorts; which we in Engliſh tearme Altars; but the Romanes diſtinguiſhed them by three ſeverall names, *Scrobiculus*, *Ara*, and *Altare*.

De Scrobiculo.

[m] *Scrobiculus* was a furrow, or pit, containing an Altar in it, into which they poured downe the blood of the beaſt ſlaine, together with milke, hony, and wine, when they ſacrificed vnto an infernall God.

m Alex. Gen. dier. l. 5. c. 26.

De Arâ.

The ſecond kinde of Altar was called *Ara*, either *ab ardendo*, becauſe their ſacrifices were burned vpon it: or from their imprecations vſed at that time, which in Greeke they called ἀραὶ. It was made foure-ſquare, not very high from the ground, or as ſome ſay, cloſe to the ground: and vpon this they ſacrificed vnto the terreſtriall Gods, laying a turffe of graſſe on the Altar: and this gave *Virgil* occaſion to call them, [n] *Aras gramineas, id eſt*, graſſy Altars.

n Virg. Æn. 12.

De Altari.

The third ſort was called *Altare*, either becauſe it was exalted, and lifted vp ſomewhat high from the ground; or becauſe

cause he that sacrificed (by reason the Altar was so high) was constrained to lift vp his hands *in altum*, on high: o and vpon this they sacrificed vnto their cœlestiall Gods onely.

o Serv. in Bucolic. eclog. 5.

De foco.

Focus is a generall name, signifying any of these Altars. So called *à fouendo*: because as *Seruius* hath obserued that is *focus, quicquid fouet ignem, siue ara sit, siue quicquid aliud, in quo ignis fouetur.* But in strict propriety of speech, it is taken for that Altar on which they sacrificed to their domesticke Gods, such as were their *Penates*, or *Lares*. As it appeareth by *Plautus* p.

x *Penates.*

p Aulular. act. 2. Sc. 5.

Hæc imponentur in focum nostro Lari
Vt fortunatas faciat gnatæ nuptias.

Whence ariseth that Adage *Pro aris & focis certare* sounding as much as to fight for the defence of religion, and ones priuate estate; or (as our English proverbe is) for God and the Country; the proverbe being in its originall, part of the oath that was administred vnto the *Romane* Souldiers: and thus it is expounded by q *Turnebus*.

q Turneb. Adu. l. 10. c. 7.

LIB.

Lib. 1. *Sect.* 2.

The generall diuiſions of the Romane people.

Cap. 1.

De populo Romano, & eius primâ diuiſione.

THus having premiſed a ſhort treatiſe concerning the firſt ſituation of *Rome*, and the moſt remarkeable partes thereof, I purpoſe to proceed to the Inhabitants, which antiquity hath ſtiled Citizens of *Rome*. And *Eraſmus* rather deſcribing a *Romane*, then defining him, ſaith; A *Romane* was graue in his converſation, ſeuere in his iudgement, conſtant in his purpoſe: Whence *Cicero* in his Epiſtles often vſeth this phraſe, *More Romano*, for *ex animo, id eſt*, vnfainedly.[a] *Sigonius* rendring the definition of a Romane Citizen, averreth; that no man is *lege Optimâ, id eſt*, in full and compleat manner a Citizen of *Rome*, but hee which hath his habitation there, which is incorporated into a Tribe, and which is made capable of Citie preferments. By the firſt particle, thoſe which they tearme *municipes*; by the ſecond, thoſe which they call *Inquilini*; and by the third, thoſe which they call *Libertini*, are in a manner

[a] Sig. de iur. Rom. l. 1. c. 1.

ner disfranchiſed. But whereas *Sigonius* ſaith, that they muſt have their habitation at *Rome*, he would not bee ſo vnderſtood, as if a Romane Citizen might not remove his habitation to another Country: For ſaith he, a Romane Citizen may be ſo long abſent from *Rome*, and the fields belonging to *Rome*, as he pleaſe; ſo that he ſuffer himſelfe to bee ſeſſed and taxed in common with others, toward the ſubſidie payments, and denyeth to be incorporate into another City. For *T. Pomponius* was a true Citizen of *Rome*, though he dwelt at *Athens*. The Romane Citizens being by theſe priviledges, as by a more proper and peculiar Character diſtinguiſhed from other people; and being planted in the City according to the appointment of *Romulus* their King, it ſeemed good vnto him to divide them into [b] Tribes, not taking the note of diſtinction onely from the divers places they then inhabited, as we reade that *Servius* the ſixth King of *Rome* did, making therefore foure Tribes τοπικὰς, locall, namely, *Suburanam*, *Palatinam*, *Collinam*, and *Eſquilinam*, (which number of locall Tribes, in proceſſe of time, encreaſed vnto the number of 35:) but dividing them according to the ſeverall Nations, which at the firſt were *donati civitate*, *id eſt*, made free Denizens of *Rome*: (and they being in number three. 1. the *Sabines*, which were named *Tatienſes*, from their King *Tatius*. 2 the *Albanes*, called *Ramnenſes*, from *Romulus*. 3. other Nations promiſcuouſly flocking out of other Countries, to the *Romane Aſylum*, placed in a Grove called in Latine *Lucus*, which gaue *Romulus* occaſion to name them *Lucres*) he made in all three Tribes γενικὰς, or Nationall. After that *Romulus* had thus devided the whole body of the *Romanes* into three Tribes, he then ſubdivided each Tribe into ten leſſer numbers, which hee called *curiæ*, or pariſhes: and then followed fiue other diviſions in reſpect of their different degrees, and callings: of which in their ſeverall order.

[b] Sigon. de iur. Rom. lib. 1. c. 3.

CAP.

CAP. 2.

De primâ diuiſione Romanorum in Senatores, ſive Patres, Patricios, ſive Patronos, & Plebeios, ſivè Clientes.

THe firſt diuiſion of the *Romanes*, in reſpect of their degree, and place, was this. The elder, wealthier, and graueſt ſort of *Romanes*, were called ſometimes *Patricij*, either becauſe of their age, and gravity; or becauſe they had many children (for great priviledges were granted vnto fathers of three children:) and ſometimes *Patroni*, becauſe they were as patrons and fathers, in helping and aſſiſting the cauſes of the common people ſeeking to them. The younger, poorer, and ſimpler ſort, were called, as they had relation to the *Patricij*, *Plebeij, id eſt*, the Commons; as they had relation to their *Patrons*, they were named *Clientes, id eſt*, Clients, betweene whom there was ſuch a mutuall, and reciprocall entercourſe of loue, and duty, that as their Patrons were ready to protect their Clients, ſo the Clients were bound with all faithfulneſſe to cleaue vnto their Patrons: and that not onely to credite them with their attendance in publike aſſemblies, but to diſburſe out of their owne purſes, towards the beſtowing of their daughters, the paying of publike mulcts, the giuing of largeſſes in ſuing for offices, &c. Neither was it lawfull for either of them to enforme, to depoſe, to giue their voyces, or to ſide with aduerſaries one againſt another, without the guilt of treaſon: for which crime of treaſon, they were *diis inferis deuoti, id eſt*, curſed to hell, and the Law gaue liberty for any man to kill them. Out of the *Patricij* did *Romulus* elect 100. Counſellers to aſſiſt him in determining matters concerning the Common-weale: to theſe did *Romulus* after adde another 100. and *Tarquinius Priſcus*, as diuers Authors teſtifie, made them a compleat 300. which they called *Patres*, or

c Lazius de *Repub. Rom. lib. 12. cap. 3.*

Senatores, and their ſonne *Patricij*. But in proceſſe of time the commons alſo were eligible into a *Senators* place. Some ſay that *Tarquinius Priſcus* added the ſecond hundred to the *Senate* out of the Commons, [d] who were called *Senatores minorum gentium, id eſt, Senators* of the lower houſe. *Brutus* added the laſt 100. and made them 300. at what time they began to be called *Patres conſcripti*. And this accordeth with *Ioannes Roſa* in his Epitomie of the *Romane* hiſtory, in his *cap. de Regibus Romanis*: where he ſaith, that *Tarquinius Priſcus* did double the number of the *Senators*: And likewiſe [e] *Alex. Neop.* ſaith, that *Brutus* made them a compleat 300.

[d] Martin. Phileticus in Cic. l. 1. Ep. fam. 1.

[e] Alex. Gendier. l. 2. c. 29.

Cap. 3.

De ſecundâ diviſione Romanorum in tres ordines, Senatorium, Equeſtrem, Populârem, ſeu Plebeium.

After that through *Tarquinius Superbus* his tyranny, the very name of a King became odious to the *Romanes*, not onely the preſent King was exiled, but the authority of a King ever afterward deteſted, and perpetually abrogated: ſo that the office, which was before monarchicall, then was divided betweene two, called Conſuls; neither were they admitted for any longer ſpace then one yeere. At which time of change, the *Romanes* were divided into three orders, or ranges, 1. into **Senators**, of whom before. 2. into **Gentlemen**, called of the *Romanes, ordo Equeſtris*: by which we do not vnderſtand thoſe 300 *Celeres, id eſt*, Penſioners, called ſometimes *Equites*, for that was a place of ſervice, this a title and token of Gentility. Who although they were inferiour to the chiefe Senate, yet they were of great eſteeme among the *Romanes*: and although they might not weare the ſame robe as the *Senators* did, namely, the *laticlavium*, or garment beſtudded with flouriſhings of purple ſilke in manner of broad naile heads; [f] yet they might weare the *anguſticlavium*,

[f] Roſin. Antiq. lib. 1. cap. 17.

clavium, a garment differing from the ſerme onely in this, becauſe the purple ſtuddes, wherewith it was purfled was narrower, and not ſo large as the *lati-clavium*. They alſo at the time of their election received from the *Cenſors* an horſe, called by them *equus publicus*, becauſe of the yeerely allowance out of the common treaſury to keepe him: it was alſo called *equus militaris*, becauſe of their ſervice in war (gthey having their horſes kept as well in peace, as warre.) They received alſo a gold Ring, hwhereby they were diſtinguiſhed from the Populacie: for it was not lawfull for any to weare a gold Ring vnder the degree of a *Senator*, or a Gentleman. The eſtimation and value of a *Senators* eſtate, ivntill *Auguſtus* his time, was *ectingenta ſeſtertia*, that is, 6000l. k Of a Gentlemans eſtate, it was *quadringenta ſeſtertia*, that is, of our Engliſh money 3000l. 3. The third order, or degree in the *Romane* Common-wealth was *Populus*, the populacy, or Commone, which exerciſe trading, manure the ground, looke vnto the cattell, &c. Where by the way we muſt vnderſtand that the baſer ſort of the *Romans*, which did wander vp and downe, too and fro, not ſetling themſelves to any vocation, were not contained within this diviſion: for vnto them there was no name vouchſafed: but according to the Poet, they were *ſine nomine turba*; or as *Livy* ſaith, *ignota capita*, men of no account, and therefore of no name.

g Lipſius de magnitud. Rom. l. 1. dial. 5.

h Alex. Gen. dier. l. 2. c. 29.

i Suet. in Auguſt.

k Plin. lib. 33. cap. 2.

CAP. 4.

De tertiâ diviſione in Nobiles, Noves, & Ignobiles.

THis diviſion was taken from the right or priviledge of having images; for they were accounted Noblemen, which had the images of their predeceſſours: Thoſe which had their owne images onely, were called *Novi, id eſt*, late coyned Nobles or vpſtarts. *Saluſt* vſeth this

word often in the disgrace of *Tully*, calling him *Novum & repititium civem*, one that lately crept into the City. The third sort called *ignobiles*, were those that had no images, neither of their predecessors, nor of themselves. Before we proceede, we must vnderstand, that it was not lawfull for who would, to have his owne image, if hee so desired; for none might be thus priviledged, but those alone, to whom the right of riding in a Curule chaire belonged; and to these the right of images was permitted, as well for the credit of their house, as to incite others to the like achievements, when they would consider the divers ceremonies vsed vnto these images, in an honourable remembrance of those whom they did represent. Whence it followeth, that *Ius nobilitatis*, is nothing else, but *Ius imaginis*; insomuch that this word[l] *Imago*, doth oftentimes signifie Nobility: and the right of having images with them, was the same as the right of having armes with vs.[m] The superstitious conceipt which the *Romanes* had of these images was such, that vpon feastivall daies, and all occasions of ioy and mirth, those images should be beautified and adorned, with garlands and flowers; vpon occasions of griefe & mourning, they would take from them all their ornaments, making them in a manner to partake of their mourning. Some they keepe in their private closets,[n] others they expose to the publike view of passengers, placing them in the gates of their houses, together with the swords, targets, helmets, shipbeakes, and such other spoyles, as formerly they had taken from their enemies;[o] which it was not lawfull for any, though they bought the house, so much as to deface. Yea they were so annexed to the freeholde, that they passed alwaies in the conveyance of the house. The manner of which they were commonly made, was waxe, as that of *Juvenall* doth sufficiently witnesse.

l Sigon. de int. Rom. l. 2. c. 20.

m Alex. Gen. dier. l. 5. c. 24.

n Barth. Lato. in Verrin. 7.

o Plin. 35. 2.

p Iuv. Sat. 8.

p *Tata licet veteres exornent vndiq; cera*
Atria, nobilitas sola est atq; vnica virtus.

Againe, we may not thinke, that they made in waxe a compleate

pleate ſtatue or a full protraiture of the whole body, but only from the ſhoulders vpward.

Cap. 5.

De quarta diuiſione Romanorum in Optimates & Populares.

THis fourth diuiſion of the *Romanes*, hath bene occaſioned through the faction and ſiding of the Citizens. Thoſe (according to the deſcription of q *Tully*) were *Optimates, id eſt*, the beſt Citizens, who deſired their actions might be liked, and approued by the better ſort. Thoſe *Populares, id eſt*, popular, who through a deſire of vaine-glory, would not ſo much conſider, what was moſt right, as what ſhould be moſt pleaſing vnto the populacie. So that here by this word *popular*, we vnderſtand not the Commons, as formerly we did, r but be he Senator, Gentleman, or inferiour, if hee do more deſire that which ſhall be applauded by the maior part, then that which ſhall bee approued by the better part, him the *Romanes* called *Popular, id eſt*, ſuch a one, that preferreth the popular applauſe before the right.

q Cic. pro Sextio.

r Geor. Merula in orat. pro ligaria.

Cap. 6.

De quintâ & vltimâ diuiſione Romanorum, in Libertos, Libertinos, & Ingenuos: item de Manumiſſione.

THe difference of the freedomes in the Citie of *Rome*, hath given occaſion of this diuiſion: For hee, or ſhee that had ſerued as an *apprentice*, and afterward was manumized, was named *Libertus*, or *Liberta*. The ſonne whoſe father, and mother were once apprentices, was called *Libertinus*, but that ſonne whoſe father and mother were both libertines,

tines, or both free-borne, yea whose mother only was free, was called *Ingenuus, id est*, free borne. But after *Appius Cæcus* his Censor-ship, they began *Liberti* and *Libertini* to signifie one and the same degree of freedome: so that *Liberti* & *Libertini* were taken for those which served for their freedome, and *Ingenui* were taken for those which were free-borne, whether their parents were *Liberti* or *Libertini*. Here is occasion given vs to consider, the manner of their freedome, and such ceremonies which belonged thereunto. The freedome of the City of *Rome* was three waies obtained: first by *birth*, both, or at least one of the parents being free, & such were called *cives originarij*. Secondly, by guift & *cooptation*, when the freedome was bestowed on any stranger, or nation, and they were tearmed *civitate donati*: and so we reade that *Cæsar* tooke in whole Nations into the freedome. Lastly, by *manumission*, which was thus; when as the servant was presented by his Master before the Consull or Pretor, the Master laying his hand vpon his servants head, vsed this forme of words, *hunc liberum esse volo*, and with that turning his servant round and giving him a cuffe on the eare, he did *emittere servum è manu*: the Prætor then laying a certaine wand or rodde called *Vindicta*, vpon the seruants head, replyed in this manner, *Dico eum liberum esse more Quiritum*. Then the Lictor or Sergeant taking the wand, did strike therewith the servant on the head, and with his hand he stroke him on the face, and gaue him a push in the back, & after this he was registred for a freeman. Moreover, the servant having his head shaven purposely at that time, receiued a cap as a token of liberty: whence *adpileũ vocare aliquem*, is to set one at liberty, as likewise *vindictâ liberare*. According to *Tertullian* at this time of their manumission, the servants receiued from their Masters, a white garment, a gold-ring, and a new name added vnto their former. Whose authority if we admit, then the having of three names among the Romans, was rather a signe of *Freedome*, then of *Nobility*. And that of *Iuvenall*.

Tan-

[f] Iustin. inst. lib. 1. tit. de Ingenuis. vid. Franc. Sylv. in Catilinariam. 4.

[t] P. Ramus in orat. pro C. Rabirio.

[u] Tert. de resur. carn.

Tanquam habeas tria nomina.——
Is not to be expounded, *as if you were a noble man*, but *as if you were a free-man*. Here we may alſo conſider the two ſeuerall kinde of ſeruants: the firſt were called *ſerui*, and they could never attaine to any freedome, without the conſent of their maſter. [x] For thoſe that were thus *ſerui*, were commonly captiues, either beſtowed as a reward vpon this or that ſouldier, or bought *ſub coronâ*, or of other Citizens that had gotten them one of thoſe two former wayes: the ſecond were called properly [y] *nexi & addicti*, becauſe though they were free, yet by reaſon of their debt, *addicebantur*, that is, they were delivered vp vnto their creditors by the Prætor to worke out the debt, ſo that after the payment thereof, either by mony or worke, they did recouer their liberty: whence they were ſaide, [z] *nomina ſua liberare*, when they payd the debt: as on the contrary they were ſaid, *nomina facere*, when they came in debt. And their creditors when they ſued for the payment, were ſaide *nomina exigere*: *nomen* in theſe and the like places ſignifying as much as *debitum* a debt, [a] becauſe the creditors did vſe to write downe their debters names. [b] The manner of ſuing for their debts was as it followeth. The debt being confeſſed, thirty daies were allowed the debter for the payment of the mony (thoſe daies of reſpite they called *dies iuſtos, velut iuſtitium quodam, id eſt, iuris inter eos interſtitionem & ceſſationem.*) The money not paid, the debter was delivered vp as a ſeruant vnto his creditor, yea he was ſometime caſt into priſon, and vnleſſe the creditor were in meane time compounded with, hee remained threeſcore daies in priſon, and three market daies one after the other, being brought before the Iudge, the debt was ſolemnly proclaimed, and vpon the third market day, he was either ſold to forreigners for a ſlave, or elſe was puniſhed with death, each creditor being ſuffered if he would, to cut a piece of his dead body, inſted of payment.

x Dion. Halicar. lib. 4.

y Sig. de ind. lib. 1. c. 31.

z Micha. Toxita in orat. pro P. Quintio.

a Fr. Syl. in epi. virorum illuſt. l. 1. epi. 6.

b Vid. Cal. Rodig. l. 12. c. 20. Item A. Gell. lib. 20. cap. 1.

Lib. 2. *Sect.* 1.

The generall diuiſions of the Romane Gods.

Cap. 1.

De diis.

THough *Sathan* had much blinded the hearts of men in old time, yet was not the darknes of their vnderſtanding ſo great, but that they did eaſily perceive, and therefore willingly acknowledge, that there was ſome ſupreame governour, ſome firſt mover, as *Ariſtotle* ſaith: ſome firſt originall of all goodnes, as *Plato* teacheth. So that if any made this queſtion, whether there was a God, or no? He ſhould be vrged to confeſſe the truth of that rather *argumento baculino, quàm Ariſtotelico*, rather with a good cudgell, then with any long diſpute. But as they were moſt certaine, that there was a God, ſo were they againe very blinde in diſcerning the true God: and hence hath bin invented ſuch a tedious catalogue of Gods, that as *Varro* averreth, their number hath exceeded thirty thouſand, and proved almoſt numberleſſe Wherefore I ſhall omit to make any diſtinct Treatiſe of the Gods, intending *obiter*, & by the way to ſpeake of them, which either had Prieſts, or ſacrifices, inſtituted for them. Onely I purpoſe to ſhew what is vnder-

ſtood by thoſe generall diſtinctions of the Gods, which divers Authors have vſed, *Tully lib.* 2. *de legibus* reduceth all vnto three heads, Gods cœleſtiall, which *Varro* calleth ſelect, and others have ſtyled Gods *maiorum gentium, id eſt*, of the greater Nations, becauſe their power was greater then the others. [a] *Alexander Neapolitanus* ſaith, that twelue of theſe were the *Penates*, which *Æneas* did take forth with him at the deſtruction of *Troy*. *Ovid* calleth them, *Deos nobiles*, noble Gods: others call them *Deos conſentes, quaſi conſentientes*, becauſe *Iupiter* would do nothing without the conſent of all. *Ennius* hath delivered them in this Diſtich,

a Alex. Gen. dier. l. 6, c. 6.

Iuno, Veſta, Minerua, Ceres, Diana, Venus, Mars,
Mercurius, Iovis, Neptunus, Vulcanus, Apollo.

The ſecond ſort of Gods were called *Semi dei, id eſt*, Demigods: [b] alſo *Indigites, id eſt*, Gods adopted or canonized; men deified. For as the ſelect Gods had poſſeſſion of heaven by their owne right; ſo theſe Gods canonized had it no otherwiſe then by right of donation, being therefore tranſlated into heaven, becauſe they lived as Gods vpon earth: but becauſe their merit was inferiour, and could not parallel the deſerts of the Gods ſelect, therefore they were called Gods of inferior note. [c] *Servius* would have theſe called *Divi*: obſerving this difference betweene *Dij* and *Divi*, that *Dij* ſhould ſignifie thoſe which had bin Gods perpetually, but *Divi* ſhould ſignifie men made Gods, though commonly they are vſed one for another. Whence they called all their Emperours *Divi*, becauſe for their deſerts they thought them worthy to bee Gods. Now the [d] manner how a man became deified was this: The party to bee canonized being dead, a pile of wood was made in forme of a great Tent, or Tabernacle, with three other leſſer Tabernacles one vpon top of another, the lower-moſt having in it dry combuſtible matter, but in the out-ſide adorned richly with gold, ivory, and painted tables: vpon the top of which was placed an Eagle made of moſt light matter, as paper, or thin wood. Hi-

b Servius in lib. Georgic.

c In Æneid: lib. 5.

d Roſin. ant. lib. 3. c. 18. vid. Hoſpinian de orig. Chriſt. Feſt. p. 21.

ther

ther the dead corps was to be caried with great ſolemnities; the Senate, the Gentlemen, and all the chiefe Magiſtrates going before, with Hymnes and Songs, and all kinde of honor, which was to bee performed even to the Gods themſelves. He being in this manner brought, and laid within the ſecond Tabernacle, the fire was kindled, by reaſon of the ſmoake & vapour whereof the Eagle was caried vp into the aire, and (as the *Romanes* thought) it did tranſport the ſoule of the dead body into heaven, in ſo much that ever after he was canonized amongſt the Gods, and worſhipped as a God. And becauſe they were thus turned into Gods, ſome have called them, *Deos animales, quoniam animæ humanæ verterantur in Deos.* The third ſort were thoſe morall vertues, by which as by a ladder men clymed into heaven: and therefore did men ſtile them Gods, becauſe by their meanes men became deified. Late writers perceiving that all the number of the Gods could not be reduced vnto theſe three heades, have added a fourth ſort, which they [f] call *Semones, quaſi ſemi-homines*, becauſe ancient writers, as *Roſinus* hath obſerved, called men *homones*, not *homines*. In which point, I ſhall willingly condeſcend vnto him; but I ſhall leave to the iudgement of others to determine how iuſtly hee hath reſtrained the Gods *minorum gentium*, of the leſſer Nations, onely vnto this laſt *claſſis*: whereas my opinion is, that the demy-gods, the morall vertues which have bene ſtiled Gods, and theſe *Semones*, may all of them be called Gods of the leſſer Nations, ſtanding in oppoſition with the Gods ſelect, which are called Gods of the greater Nations. But that wee may vnderſtand what is meant by theſe *Semones*, we muſt remember that by them are ſignified vnto vs, not thoſe Gods which do appertaine to man himſelfe, but to the neceſſaries of mans living, his victuals, his cloathing, and the like: not to the being of a man, but to the wel being of him, of which ſort is *Salus, Fortuna*, with others. We reade likewiſe of other names given in common to divers Gods, not as oppoſite member

e Serv. in Aen. lib. 3. fi

f Roſin. ant. l. 2. cap. 19.

of a diuision, but as notes of distinction drawne from the diuersitie of helpe, which they severally did afford vnto man. In this respect, some were called *dij Patrij*, or *tutelares*, such as had vndertaken the protection of any City, or Towne: which opinion hath sometimes bene entertained by our Englishmen, and thence have risen these and the like speeches, **S. George for England, S. Denys for France, S. Patricke for Ireland**, &c. And the Romans being fully perswaded of the truth thereof, whensoever they went about to besiege any Towne, by certaine enchantments or spels, they would first call out these Tetular Gods; because they deemed it a matter impossible to captivate the City, as long as these Gods were within; or at least they thought it a crime vnexpiable, to take the Gods as prisoners. And least other Nations might vse the same meanes in besieging *Rome*, therefore g as divers Authors have thought, the true name of the Romane City was never knowne, least thereby the name of their Tetular God might be descried. Others, namely the *Tyrians*, have tyed fast their God *Hercules*, with a golden chain, thereby the more to secure themselves of his residence among them. h Others have bene called *Dij communes*, namely, *Mars*, *Bellona*, and *Victoria*, because in time of war, they are not bound to either side: but sometimes they helpe one side, and sometimes the other. And as they supposed, some Gods to have the protection of whole Countries, so did they beleeve that others had the charge of particular men; and that so soone as any man was borne, two spirits did presently accompany him invisibly, the one tearmed the *bonus Genius*, or good Angell, perswading him to that which should be good: the other called the *malus Genius*, or evill Angell, tempting him to that which should be hurtfull: insomuch, that they thought all the actions of man to be guided by these Angels called *Genij*, so that if any misfortune befell a man, they would say that the matter was enterprised *Dijs iratis, id est*, our *Genius* being displeased with vs. *Virgil* calleth

g Sylvius in epist. virorum illustrium.

h Alex. Gen. dier. l. 6. c. 24.

leth theſe bad Angels *Manes*, as it appeareth by that, *Quiſq; ſuos patitur manes*, *id eſt*, Every man hath his evill Angell, *id eſt*, ſome misfortune. The ſe *Genij* were thought to be a middle eſſence betweene men & Gods: they are therefore called *Genij*, becauſe they have the tuition of vs ſo ſoone as we are *Geniti*, *id eſt*, borne: it is moſt certaine that old Authors vſed *Geno* for *Gigno*, whence [i] *Tully* ſaith, *ſi mihi filius genitur*, and [k] *Varro Antequam genat ſiliuas*, although everie place had alſo his *Genius*, as hereafter ſhall appeare. This opinion was the more confirmed by a viſion which appeared vnto [l] *Brutus* in *Aſia* neere vnto the time of his death: for *Brutus* watching vpon a certaine night in his pavillion, the candle being neere ſpent, ſaw a fierce Tragicall perſon appeare vnto him, ſomewhat bigger then a man, & he preſently, being of an vndaunted ſpirit, demanded whether he were a God or a man? To whom the viſion anſwered, *Brutus* I am thy evill *Genius*, which haunteth thee, thou ſhalt ſee me at the City of *Philippi* againe, and the ſame viſion appeared vnto him, as he was fighting at *Philippi*: which was the laſt fight that ever he fought. And becauſe *Iuno* was wont to be invocated in the time of child-birth, therefore many have thought that every man hath not his two Angels, but one Angell, and *Iuno* to obſerve him: but it is agreed vpon by beſt Authors, that as the Angles or ſpirits which did attend men, were tearmed *Genij*: ſo thoſe that guarded women were tearmed *Iunones*. This *Genius*, as often as he is vnderſtood for the good or evill Angell, which hath charge of a mans body, is painted in forme of a mans as wee reade he did appeare to *Brutus*; though ſome time he is painted as a young boy, ſometime as an old decrepite man, [m] but alwaies with a crowne of palme-tree, which therefore was called *genialis arbor*, in the right hand he held a platter over an Altar, garniſhed with flowers: in the left, hee held a ſcourge hanging downe. The ſacrifice that was per formed vnto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odors, were

i Cic. lib. 2. de orat.

k Varro Rei Ruſt. l. 1. c. 31.

l Plut. in Brut.

m Roſin. anti. l. 2. cap. 14.

were ſignified all kind of pleaſures) certaine prouerbial ſpeeches haue bin occaſioned: as when we ſee a man giuen much to his pleaſure, and dainty feeding, we ſay, he doth *indulgere Genio, id eſt*, pamper, or make much of his *Genius*: on the contrary, he that is abſtemious, and debarreth himſelfe of his pleaſure, and dainty feeding, is ſaid *defraudare Genium*, to defraud his *Genius*: and *genialis* ſignifieth iocund or pleaſant. [n] It was alſo the cuſtom after meales to haue a cup paſſe round the table, much like vnto our *poculum charitatis*, and it was called *poculum boni genij*. [o] The *Grecians* had the like cuſtome, whence that cup was called by them, ἀγαθοῦ δαίμονος. But the reaſon, why they would not ſacrifice vnto their *Genius*, by killing ſome hoſt, as they did to their other Gods, was, becauſe they iudged it vnfit to depriue any creature of his life vpon that day, when they began their life (for this ſacrifice was performed yeerely by euery one vpon his birth day) *Horace* notwithſtanding doth more then intimate the killing of a young Pigge in that ſacrifice,

n Vid. Eraſm. adag.

o Cæl. Rhod. lib. 28. cap. 6.

—cras Genium mero
Placabis, & porco bimeſtri. Hor. lib. 3. Od. 17.

The other *Genius* which is ſuppoſed to haue chiefe power ouer high waies and places, being therfore called *Genius loci*, was pictured in forme of a Snake, in which forme *Virgil* fained him to haue appeared to *Æneas*, when he performed the funerall rites due vnto his Father *Anchiſes*: *Ænead. lib. 5.*

——Adytis cum lubricus anguis ab imis
Septem ingens gyros, ſeptena volumina traxit.

And *Perſius*.

Sat. 1.

Pinge duos angues, pueri ſacer eſt locus, extra
Meiite, id eſt, duos Genios.

Another ſort of Gods was ſuppoſed to haue the keeping of mens houſes: [p] which they painted in forme of a dogge, becauſe thoſe two, whom the charge of houſes is committed, ought to reſemble dogges, that is, to ſeeme fierce and angry towards ſtrangers, but gentle and kind to thoſe of the houſe-

p Franc. Sylv. in orat. pro Sext. Roſc. Am.

hold

hold. other properties wherein theſe *Lares* doe reſemble dogges, are recited by *Ouid. Faſt.* 5.

Seruat vterq; domum, domino quoq; fidus vterq; eſt:
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diania ſures,
Pervigilant q; lares, pervigilant q; canes.

They were named *Lares*, and becauſe of the charge, they had over mens houſes, this word *Lar*, is ſundry times taken for an houſe it ſelfe, as *parvo ſub lare*, *Horat.* In a little Cottage, *homo incerti laris*, *id eſt*, a man that hath no houſe to dwell in. *Sen. in Med.* And the cuſtome in ſacrificing vnto them, was to eate vp all whatſoever was left at the offering, for they thought it an heinous matter to ſend any of that ſacrifice abroad, either among their friends, or the poore: and thereupon, when we ſee a glutton leave nothing in the platter, not ſo much as the curteſi-morſell, we ſay *Lari ſacrificat*, *id eſt*, he ſacrificeth to his houſhold God.

Lib. 2. *Sect.* 2.

Of the Romane Prieſts with ſome particular Gods.

Aunus the ancienteſt of all the Kings in *Italy*, was the firſt that brought any forme of religion into *Italy*. He conſecrated groves, gave names vnto Cities, erected Temples, ordained ſacrifices, &c. From whom the Churches, as ſome ſay, were named *Fana*. But after *Faunus*, *Evander* comming out of *Arcadia*, and afterward being King of *Latium*, he inſtituted, and appointed many other ceremonies, which before were vnknowne to the Latines After him *Æneas* comming from *Troy*, taught many of the *Troian* ceremonies: by whoſe examples *Romulus*, and *Numa*, were incited to adde many other kindes of holy rites, and at length reduced their whole religion into a certaine order, eſpecially *Numa*, who that he might gaine the more credite and authority to his new invented ſuperſtitions feigned that he had conference about them every night with the Goddeſſe *Egeria*. My intent therefore is, to ſpeake firſt of the God, in whoſe honor theſe holy rites were performed, and then to deſcend vnto the Prieſts, which were to performe them, ſhewing withall, the ceremonies they vſed in the performance.

Lact. de falſ. rel. lib. 1. c. 22.

CAP.

CAP. I.

De Pane Lycæo, ſive Inno: de Lupercis, & Lupercalibus.

Pan was ſuppoſed to bee the God of the ſheep-heards, and is [a] thus deſcribed: hee is pictured naked, having hornes in likeneſſe of the ſunne-beames, a long beard, his face red like the cleere aire, in his breaſt the ſtarre *Nebris*, the neather part of his body rough, his feete like a goate: in one hand he holdeth a pipe, in the other a ſheep-heards crooke, and alwaies is imagined to laugh. [b] He was worſhipped firſt in *Arcadia*, and there called the God *Pan Lycæus*, but afterward he was had in great eſteeme at *Rome*, [c] and in the honour of him certaine ſacrifices, and games called *Lupercalia*, were ſolemnized by the *Romanes*. [d] There hee tooke the name *Innus*, or as ſome ſay *Iunus*. Concerning the time, when theſe ſacrifices were to be performed; it was vpon the [e] vnfortunate daies of the month *Februarie*, which hath his name *à februando*, from purging: whence the feaſt or game is as a purification; though the Latine word ſignifieth a much as, a feaſt of Wolves, in a memoriall that *Romulus* and *Remus* were nurſed by a ſhe-Wolfe This ſeemeth very probable, becauſe the Prieſts, which were called *Luperci*, beganne their courſe at the foote of the Mount *Palatine*, called by the *Romanes*, *Lupercal*, *id eſt*, the place where the Wolfe nurſed [f] *Romulus*. The ceremonies were theſe: The hoaſt (being two goates) was to bee ſlaine; and two Noblemens ſonnes were to bee preſent, whoſe foreheades being bloodied with the knives of them that had ſlaine the goates, by and by were to bee dryed vp with wooll dipped in milke. Then the young boyes muſt laugh immediately after their foreheades were dry. That done, they cut the goates skinnes, and made thongs of them, which they tooke in their hands, and

a Servius in Virg. Ecl. 2.

b Feneſt. de ſacerd. cap. 1.

c Feneſt. ib.

d Pomponius Lætus de Sacerdot. cap. de Luper.

e Plutarch, in Romulo.

f Plutarch, in Romulo.

ran with them all about the City ſtarke naked (ſaving they had a cloath before their privities) and ſo they ſtrooke with thoſe thongs all they met in the way. The young wives did never ſhun them at all, but were well contented to be ſtriken with them; beleeving it helped them to be with childe, and alſo to be eaſily delivered. Moreover, it is to be noted, that a dogge was ſacrificed at this time, becauſe there is a naturall antipathy, or contrariety of nature, betweene the dogge and the Wolfe: whereby *Romulus* thought to teſtifie his gratefulneſſe vnto the Wolfe, for her paines in nouriſhing him. The reaſon why the Prieſts ranne vp and downe the ſtreetes naked, was, becauſe that *Pan*, the God of this ſacrifice was painted naked. As the feaſt, ſo alſo the place from whence they came, and likewiſe the Prieſts, had their names *à Lupâ*, which ſignifieth a Wolfe. Some Authors have obſerved three ſorts of the *Luperci*, ſome called *Fabiani*, ſome *Quintiliani*, from *Fabius*, and *Quintillus* their governours: the third ſort, which [g] *Roſinus* affirmeth to have bene added in the honor of *Iulius Cæſar*, I cannot finde according to his quotation in *Suetonius*. But thus much *Suetonius* ſaith in [h] another place, namely, that *Auguſtus Cæſar* when hee was chiefe Pontifie, did reſtore theſe games againe being formerly aboliſhed.

g Roſin. ant. lib. 3. c. 2.

h Sueton. in Auguſt.

Cap. 2.

De Cerere, & ſacris eius.

Ceres, otherwiſe called *Eleuſina*, was honoured firſt among the *Grecians*, afterward among the *Romanes*, as a Goddeſſe, which firſt taught men the skill of huſbandry.

Prima Ceres ferro mortales vertere terram
Inſtituit Virg. Georg.

Whence ſhe is ſometimes *metonymicõs* taken for Corne, as

Credenda

Credenda Ceres arui. Ovid. It is ſeede time. She is called *Ceres, i quaſi Geres, a gerendis frugibus.* from beating fruite: because, as ſome ſay, by *Ceres* is vnderſtood ſometimes the earth it ſelfe: whereof alſo *ἡ μήτηρ*, being the Greeke name of *Ceres*, is ſaid *quaſi γῆ μήτηρ, id eſt*, the earth, which is the common mother of vs all. [k] She is painted in the habit of a Matron wearing a garland of corne, ſometime ſorrowfull with a lampe in her hand, as if ſhee were ſeeking out her daughter *Proſerpina*, caried by *Pluto* into hell; and ſometime with a handfull of corne or poppy-ſeed. Vpon the fift of the Kalends of *Aprill*, the *Romanes* were wont to performe ſacrifices vnto her, which they called *ſacra Graca, id eſt*, the Grecian ſacrifices, as likewiſe they tearmed the chiefe woman which did performe them *ſacerdotem Græcam, id eſt*, the Greeke miniſtreſſe, becauſe they were tranſlated into *Rome* out of *Greece* by *Evander*. The time of their ſolemnities was at the dawning of the day, and the Prieſts (which were onely women) ran vp and downe with lamps in their hands, in the manner of mad women; into whoſe Temple none that was guilty of any fault committed might enter: whoſe myſteries were to be buryed in ſilence, and by no meanes to be blabbed abroad. And as it is to be ſuppoſed, that was the reaſon why all wine was forbad in this ſacrifice. So that hence [l] we ſay, *Cereri ſacrificat*, he ſacrifices to *Ceres*, when he maketh a feaſt without wine.

i Cic. lib. 3. de nat. deor.

k Roſin. Ant. l. 2. cap. 11.

l Plautus in Aulularia.

Cap. 3.

De Potitijs, & Pinarijs, Herculis ſacerdotibus.

Hercules had an Altar erected in the memoriall of him, neere vnto *Tyber* by *Evander*, vpon occaſion of the heards-mens complaint brought vnto *Evander* of him, whom they accuſed to have ſlaine their chiefe heards-man *Cacus*, the hiſtory being [m] thus. *Hercules* after his conqueſt

m Verg. Æn. lib. 8.

queſt over *Geryon*, brought away with him certaine goodly Oxen, and as well to reſt himſelfe, as to paſture his Oxen, hee laid him downe to ſleepe in a greene field neere the river *Tyber*. In the meane while, a certaine heards-man, called *Cacus*, happened to come that way, and perceiving *Hercules* to bee in a ſound ſleepe, he ſtole away two of his Oxen, which he hid in a cave or hollow rocke, pulling them in by the taile backward, thinking that *Hercules* when he ſhould looke his Oxen, and ſee the print of the footſteps, would eaſily beleeve, that his Oxen had rather gone out from that rock, then into it, as indeed he did for a time beleeve: but afterward by the bellowing of the Oxen within, anſwering their fellowes without, *Hercules* entred the rocke, & finding the theefe *Cacus* there with his Oxen, he killed him; by reaſon of which murder he was brought before *Evander*, and after a while knowne to be the *Hercules*, of whom the Propheteſſe, *Carmenta*, had foretold vnto *Evander*, that he ſhould be a God. Whereupon *Evander* preſently ſaluted him by the name of *Hercules* the ſon of *Iupiter*, & in honor of him cauſed an Altar to be built there in that place: vpon which, yeerely was to be offered vp an heifer which had never borne yoke: and that this ſacrifice might be had in the more eſteeme, two Noblemen well ſtroken in yeeres, & of good repute among the *Romanes*, one of them being called *Potitius*, and the other *Pinarius*, were appointed as the Prieſts to performe theſe ſacrifices; from whom ever after *Hercules*, his Prieſts were called *Potitij*, and *Pinarij*. Where by the way we muſt obſerve, that *Pinarius* was not the ſur-name of this old Nobleman, but a name added vnto him, intimating his, and his ſucceſſours puniſhment for not comming ſoone enough according to the time appointed by *Hercules*. For as [n] divers writers teſtifie, the entrals of the hoaſt were almoſt eaten vp by the family of *Potitius*, before *Pinarius*, and his family came; and in puniſhment of their negligence, *Hercules* enioyned the *Pinarij* never after to eate of the entrals, giving them this name *Pinarij* at that

n Serv. Aeni. lib. 8.

that time, from the Greeke word λιμὸς, ſignifying, hunger.

CAP. 4.

De Fratribus arualibus.

THis Colledge or company of *Romane* Prieſts, may bee engliſhed, *The Arvall fraternity*: the number of them being twelue, eleven of them naturally brothers, ſonnes to *Acca Laurentia*, *Romulus* his foſter mother; o for which reſpect, *Romulus* yeelded himſelfe her adopted ſonne, inſtituting this order in the honour of *Ceres* and *Bacchus* for the plenty of wine and corne, vnto whom they did offer vp certaine ſacrifices called *Ambaruales hoſtiæ, quod antequam mactarentur ter circum arua ducebantur*, according to that of *Virg. Georg. Terq; nouas circum fœlix eat hoſtia fruges*, that they being therewith appeaſed, might the willinger cauſe the earth to fructifie, and added himſelfe to the former eleuen, as the twelfth Prieſt or brother, to helpe in the performance of this publike ſacrifice. Moreover, beſide the performance of this ſacrifice, theſe twelue were appointed *Arbitrators*, or Iudges, to decide controuerſies concerning Land-markes, and bounds of the field, from whence they took their name *Fratres Arvales*. Their ſacerdotall ornaments, was a garland of wheate bound vp with a white riband, this being, as p *Pliny* writeth, the firſt crowne, or garland amongſt the Romanes.

o Feneſt. de Sacerd. c. 3.

Hoſp. de orig. Monach. c. 10.

p Plin. lib. 17. cap. 2.

CAP. 5.

De ſexaginta Curionibus.

AFter that *Romulus* had diuided the whole body of the *Romanes* into three Tribes, or Wardes, and ſubdiuided thoſe three Wardes into thirty Pariſhes, called *Curiæ*, hee ordained out of each *Curia* two pariſh Prieſts or Curates, called, *Curiones*, or *Flamines curiales*; which were pub-

publikely to offer vp sacrifice in the behalfe of the people. Neither was every one equally capeable of this honour of Priesthood; q but he was to be at the least fifty yeeres olde, of a life vnspotted, and a body vnmaimed. And over all these, there was one which had chiefe rule, and therefore was called *Curio Maximus*, the Bishop, or chiefe Prelate: and these sacrifices were called *Curionia*. r Their sacrifices being ended, each Parish had a feast in a common hall built for that purpose: it was called *Domus Curialis*, and sometimes *Curia*.

q Dion. Hal. lib. 2.

r Dion. Hal. lib. 2.

Cap. 6.

De Auguribus, & eorum Collegio.

AMongst other kindes of Fore-tellers we reade of three principally vsed in former time, namely, *Aruspices*, *Auspices*, and *Augures*: all which we English Sooth-sayers, though the Latine words doe import a maine difference worth our observation: all are alluded vnto by *Ovid.*

Ovid. trist. l. 1. Eleg. 8.

Hoc mihi non ouium fibræ, tonitrua ve sinistri,
Linguave servatæ, permave dixit aves.

1 The *Aruspices* did divine, or fore-tell things to come by beholding the entrals of beasts sacrificed: whence they had their name., *Ab aras inspiciendo*, from beholding the Altars. The 2 *Auspices* did fore-tell things by beholding the flight of birds, so that *Auspices* are said *quasi avispices, ab aves aspiciendo.* The 3 *Augures* did divine from hearing the chatting or the crowing of the birds: whence they are caled *Augures ab avium garritu*, from the chirping & chatting of birds. These two 4 last kindes of soothsaying, have occasioned these and the like phrases, *bonis avibus*, or *auspicijs*, with good lucke, *malis avibus, id est*, with ill lucke: and because they would beginne t nothing *inauspicatò, id est*, without the counsell of the *Augures*, hence *Auspicari rem* hath bene translated, to beginne

t Fr. Sylvius in orat. pro Cluentio.

ginne a matter. The colledge of the *Augures* at *Rome*, was firſt appointed by [u] *Romulus* himſelfe, being very expert in ſoothſaying, there being at the firſt but three, namely, one of each Tribe; (The word *Augure* beeing not taken in his owne proper ſenſe and ſignification aboue mentioned; but generally by the trope *Synecdoche*, ſignifying all kindes, and ſorts of divining whatſoever, whether it were by obſerving the entrals of beaſts, the flying, ſcreeching, and chatting of birds, or thundring, or lightening in the heavens, or marking the rebounding of crummes caſt vnto birds, which kinde of divining was called *Tripudium*.) [x] *Servius Tullius*, the ſixt *Roman* King, when he divided *Rome* into foure locall Tribes, *id eſt*, Regions, or quarters, then did he adde the fourth *Augure*, all of them being elected out of the *Patricij*, or the Nobility of *Rome*. [y] In proceſſe of time, *Quintus*, and *Cneius Ogulinus*, being choſen *Tribuni plebis*, *id eſt*, protectors of the Commons, obtained, that five other *Augures* ſhould be choſen out of the Commonalty, & added vnto the former foure: at which time the Senate decreed, that the colledge of *Augures* ſhould never exceed the number of 9. [z] Notwithſtanding, *Sylla* being *Dictator* added 6. more, inſomuch that their Colledge encreaſed to the number of fifteene: the eldeſt of which was called [a] *Magiſter Collegij*, the Mr, or *Rector* of the colledge. The *Augures* excelled other Prieſts in [b] this reſpect, becauſe if any of them had beene convinced of any heinous crime, he did not looſe his office, neither was any other ſubrogated into his roome, although the *Romane* cuſtome was, that if any other Prieſt had committed any notorious offence, he ſhould preſently be diſcharged of his office, and another choſen in his place. [c] The manner how the *Augur* did obſerve was this: He ſate vpon a Caſtle, or a Tower, the ayre being cleere and faire without cloudes, or raine, holding a crooked ſtaffe, (called in latine *Lituus*) in his hand, where he ſitting in his ſoothſaying robe, called *Læna*, & in Greeke χλαῖνα, παρὰ τὸ χλιαίνειν, *à calefaciendo*, from heating, becauſe it was well lined

u Pom. Lætus cap. de Augur.

x Roſin. ant. l. 3. cap. 8.

y Roſin. Ibid.

z Roſin. Ib.

a Alex. Gen. dier. l. 6. c. 19.

b Alex. Ib.

c Pomp. Lætus, c. de Aug.

lined within, being garded in the outside with purple and crimson gards) having his head covered, and his face turned toward the East, so that his backe was West-ward, his right side South-ward, and his left North-ward. Being thus placed, he quartred out with his crooked staffe, the heaven into certaine *Templa, id est*, Regions, or places, observing in what Region the birds did appeare. Then killing his sacrifice, and offering vp certaine prayers, called *Effata*, he proceeded in manner as followeth. But first, suppose we for our better vnderstanding hereof, that now the *Augures* were to resolve the people, whether the Gods would assent, that *Numa Pompilius* should be King. The *Augure* having done, as aboue is shewne, his *Lituus* being in his left hand, he reached forth his right hand, putting it vpon *Numa Pompilius* his head, vsing this forme of words, *Iupiter pater, si fas sit Numam Pompilium, cuius ego caput tenco, regem Romæ esse, vti nobis signa certa, ac clara sint inter eos fines, quos feci, id est*: If it be lawfull for this *Numa Pompilius*, whose head I hold to bee King of *Rome*, shew some manifest tokens with these Regions, or quarters, which I hav described. Then if he observed lucky signes and tokens, he presently pronounced *Numa Pompilius* King of *Rome*: if he perceived vnlucky tokens, then did he *obnunciare*, or gaine-say, and shew, that the matter proposed was not pleasing to the Gods. Where by the way we must note, that nothing was confirmed by the *Augures*, without the appearance of two lucky tokens, one after another; neither was any thing gain-said, by the appearance of one only evill token. The distinctions of the southsayings have bene taken, some from the event, & thence are they called *prospera*, lucky; or *adversa*, vnlucky. Some from the manner of their appearing, [d] & that was either wished being called therefore *impetrativa*, or vnwished, called *oblitiva*. Some from the diversity of things, which offered themselves in time of divining, and so there were five distinct sorts: The first was, by the observing of lightning and thunder from heaven: the second from the flying,

[d] Veru. Æn. lib. 6.

ing, and chatting of birds: the third from bread caſt to Pullets, or little Chickens: the fourth from foure footed Beaſts, which either ſhould croſſe the way, or appeare in ſome vnaccuſtomed place: the fift from thoſe caſualties, whereby the Gods doe make their anger appeare vnto vs. Of this ſort are thoſe voices, which we heare we know not whence, (as[e] *Cadmus* heard when he overcame the ſerpent) the falling of ſalt towards vs at the Table, the ſhedding of wine vpon our cloathes. From which caſualties, and the like, the *Augures* would pronounce either good fortune, or bad to enſue: And theſe tokens were therefore called, *Dira*, becauſe thereby *Dei ira nobis innoteſcit*, the Gods anger is made knowne vnto vs. Now the things that in divining time appeared on the left-hand, were commonly tokens of good luck, becauſe the giwers right hand in beſtowing a benefit, is oppoſite to the receivers left hand. Whence[f] *ſiniſtrum*, though in humane affaires, ſignifieth as much as vnlucky, yet in thoſe holy rites of divining, *ſiniſtrum* is taken in a contrary ſenſe, as *Avis ſiniſtra*, good lucke; *Intonuit lævum*, it hath thundred luckyly, we ſhall have good ſucceſſe: & it is ſaid, *à ſinendo*, becauſe the Gods thereby do ſuffer vs to proceede in our purpoſed proiects. And therefore *Tully* ſaith, *lib. 1. de divinatione*, *A ſiniſtrâ cornice ratum, & firmam augurium fieri*: and in the lave of the 12. Tables it is ſaid, *Ave ſiniſtrâ populi magiſter eſto.* [g] The *Grecians* from hence, in the iudgement of *Lipſius*, have called the left hand ἀριστερὸν from ἄριστον, ſignifying, the beſt.

[e] *Vox ſubitò audita eſt, neque erat cognoſcere promptum Vnde, ſed audita eſt.* Ovid. Met. lib. 3. fab. 1.

[f] Serv. Aenai. lib. 2.

[g] Lipſ. Ele&. lib. 2 cap. 2.

Cap. 7.

De Tripudijs, & pullarijs.

THis kinde of coniecturing, is called *auſpicium coactum*, [h] *quoniam neceſſe erat offâ obiectâ cadere fruſtum ex pulli ore, cùm paſcitur.* The word *Tripudium*, is vſed by a *Syncopation* for *Terripudium*, which is as much as *Terripa-*

[h] Cic. de divinat. lib. 1.

vium, id est, adaunсing or rebounding of any thing vpon the ground: for *pavire* is the same with *ferire*. [h] Others say, *Tripudium quasi tritio pedum*. It is here taken for a divining, or coniecting of good or evill to come, by the rebounding of crummes to Chickens in a coope or pen: whence the *Augure* from these Pullets or Chickens, was called *Pullarius, id est*, a Bird-prophet. [i] The manner in observing was this. As often as by this kinde of coniecting they desired to know the Gods pleasure, concerning the enterprizing of any matter, early in the morning, those that were skilfull in this kinde of observation, repaired vnto the place where the Chicken was kept, where silence being commanded, and the coope opened, they cast crummes of bread to the Chicken. Now if the Chicken either came slowly, or not at all vnto the bread, or if they walked vp and downe by it, not touching it, then was it a token that the matter to be enterprized, was displeasing vnto the Gods: but if contrarily, the Chicken did hastily leape out of the coope, and eate so greedily of the crummes, that ome should fall out of their mouthes againe, then the *pullarius*, that is, the *Augure*, pronounced that it was well pleasing to the Gods, and encouraged the enterprizing of what they had intended cheerefully: and this was called, *Tripudium solistimum*. This kinde of coniecting, may seeme to have its originall from the *Lycians*, [k] who as often as they desired to foreknow the successe of any enterprise, they went vnto the fountaine dedicated to *Apollo*, into which they cast baites for the fish: now if the fishes did eate them, it did betide good lucke; if otherwise they neglected the baites, then it did betoken some evill.

h Hubert. in lib. 6. Ep. fam. Cic.

i Alex. Gen. dier. l. 1. c. 29.

k Alex. lb.

CAP.

Cap. 8.

De Aruſpicibus, Aruſpicina, & Extiſpicio.

THis kinde of ſoothſayers, as they were called *Aruſpices ab aras aſpiciendo*, from beholding the hoaſt vpon the Altar; ſo were they called *Extiſpices, ab exta aſpiciendo*, from beholding the bowels or entrals of the beaſt, called in Latine *Exta*. In this kinde of ſooth-ſaying the *Aruſpex* obſerved in manner as followeth: [l] firſt, whether the beaſt to bee ſacrificed, came vnto the Altar willingly, without plucking, and haling; whether he died without much ſtrugling, and loud bellowing; at one blow, or many; whether any vnlucky obiect were ſeene, or heard by them, whiles they were ſacrificing. Againe, after the beaſt was ſlaine, then would they obſerve, whether the bowels were of an vnnaturall colour, whether they were not vlcerous, exſiccate, or impoſtumated. Moreover, they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what ſhould befall themſelues, and their friends: the other they would call *partem hoſtilem*, whence they gathered predictions touching their enemies. Hence *Manto* in [m] *Seneca* deſcribing the entrals of this killed ſacrifice ſaith, *Hoſtile valido robore inſurget latus*, meaning by *hoſtile latus, partem hoſtiliem*. Afterward when the ſacrifice was to be burned, they conſidered, whether the flame of the fire was ſmoakie, whether the ſmoake rolled, and tumbled in the ayre, whether it were of any continuance or no: for all theſe were vnfortunate tokens, as the contrary did betoken a good and fortunate iſſue to their deſignements. Theſe laſt which obſerved the fire & ſmoake, were called by a more peculiar name, *Capnomantes*, ſmoake-Augurers, from the greek wordes καπνὸς, ſignifying ſmoake, and μάντις, *id eſt*, *vates*, or a ſoothſayer. The firſt inſtructions that the *Romanes* received

[l] Sene c. Oed. Act. 2. ſcen. 2.

[m] Oedip. Act 2 ſcen. 2.

was from the *Hetruſci*, who (as they themſelves ſay) receiued their knowledge from a little boy, which they named *Tages*: the hiſtory being thus. [n] When the *Hetruſci* were plowing their lands, vpon a ſuddaine vp ſtarted this *Tages* out of one of the furrowes, vſing divers ſpeeches vnto the plow-men: but they being much affrighted at this ſuddaine and ſtrange viſion, beganne with a loude cry to lift vp their voices; vpon occaſion whereof, many other people flocked thither, where hee gave many good inſtructions concerning this kinde of ſouth-ſaying, which were preſently recorded in bookes, and practiſed afterward by the *Hetruſci*.

n Cic. de diuinat. *Indigena dixêre Tagem, qui primus Hetruſcam edocuit gentem, caſſum aperire futuros.* Ovid. Met. lib. vlt.

Cap. 9.

De Flaminibus.

THe Mitre, or head-ornament which theſe Prieſts did weare, was called in old time [o] *Flama*, whence the Prieſts tooke their name, *Flamines*. The [p] cuſtome amongſt the *Grecians*, as likewiſe afterwards among the *Romanes*, was, that the King ſhould as well performe Ceremonies and holy Rites of religion, as civill buſineſſes. But *Numa Pompilius* perceiving, that forraine warres did oftentimes occaſion the Kings abſence, inſomuch, that thoſe religious Ceremonies, which he himſelfe perſonally ſhould performe, were of neceſſity ſometimes neglected: herevpon he ordianed out of the *Patricij*, three Prieſts to performe that divine ſervice vnto *Iupiter*, *Mars*, and *Romulus*, which he himſelfe otherwiſe ought to have performed; calling the firſt *Flamen Dialis*; the other, *Flamen Martialis*; and the laſt, *Flamen Quirinalis*, from *Romulus*, which was often called, *Quirinus*.

o Roſin. antiq. l. 3. cap. 15.

p *Rex Anius, rex idem hominum Phœbique ſacerdos,* Virg. Aeneid. lib. 3.

Ovid Faſt. l. 2

Siue quòd haſta quiris priſcis eſt dicta Sabinis,
Bellicus a telo venit in aſtra deus.
Siue ſuo regi nomen poſuere Quirites.
Seu quia Romanis iunxerat ille Cures.

In

In proceſſe of time, twelue others choſen from the commons were added vnto theſe; but with this note of diſtinction, that the three firſt were had in greater eſteeme, and were called *Flamines maiores*, High Prieſts; the other of leſſe note, called *Flamines minores*, inferiour Prieſts. The chiefe of all was the *Flamen Dialis*, *Iupiters* high Prieſt: and whereas euery one did weare a certaine bonnet in forme of a Mitre, which ſomtimes was called *Pileum*; ſometime by the figure *ſynecdoche*, *Apex* (whereas *Apex* doth properly ſignifie only the toppe of the Bonnet) [q] none might weare *Albo-galerum*, *id eſt*, a white mitre, but only *Iupiters* Prieſt; and that was to be made of a white ſheepes skin, after the ſheep had been ſacrificed. Whatſoeuer malefactor could eſcape vnto this Prieſt, he ſhould not be puniſhed that day. None was eligible vnto this office, but he that was married; neither was it lawfull for him to marry twice, but if his wife died, *Flaminio ababat, id eſt*, hee reſigned his ſacerdotall office. To him was permitted a rich robe of ſtate, and a curule-chaire: none might fetch fire out of his houſe, vnleſſe it were to performe ſome ſacrifice therewith. [r] None might barbe or pole him, but a free-man, and that with a braſen ſciſſers. Many other ceremonies there were, which concerned this *Flamen*, as likewiſe time added many other *Flamines*, namely, [f] euery God one, yea, ſometime thoſe threeſcore pariſh prieſts, which formerly were called *Curiones*, were called *Flamines Curiales*; and diuers Emperours after their death, had alſo their *Flamines*. [t] Moreouer, wee muſt note, that thoſe prieſts wiues were called *Flammicæ*, their miniſters (for they were wont, when they went to ſacrifice, to take a boy or maide with them) *Flamini*, or *Flaminicæ*: And the Chiefe-flamens dwelling houſe was called *ædes Flaminea*, or *Flaminia*. But as it ſeemeth probable, *Numa Pompilius*; and ſo the other Kings ſucceeding him, did ſtill reſerue their right and authoritie in holy matters ſo farre, that they would inſtruct other inferior prieſts, yea, and perſonally performe ſome ſpeciall ſacrifices themſelues:

q Alex. Gen. dier. l. 6. c. 12.

r Servius Aen. lib. 1.

f Feneſt de ſacerd. cap. 5.

t Alex. Gen. dier. l. 6. c. 12.

themſelues: wherevpon, after that the Kings authority was abrogated amongſt them, then that theſe ſacrifices might be continued, they choſe a certaine Prieſt, which they preferred before the *Flamen Dialis*, but iudged him inferiour to the *Pontifex maximus*, or Arch-Pontifie, and him they cald, *Rex ſacrificulus*, and *Rex ſacrorum*, the King prieſt. To him once every yeare the veſtall Nunnes repaired, and vſed this forme of words, *Vigilaſne Rex? vigilo*: king art thou awake? awake. For vnto him it did belong to bid holydaies, and to provide all things neceſſary for publike ſacrifices. He was to inſtruct thoſe that ſought vnto him, the cauſes of the holye dayes, and to tell them what was lawfull or vnlawful every month, and vpon the fifth of the Ides of Ianuary, he ſacrificed a Ramme to *Ianus*. He was likewiſe wont to offer vp a ſacrifice in the *comitium* or great Hall of iuſtice, which being finiſhed, hee ran as faſt as he could out of the Market-place without delay. His Wife was called *Regina ſacrorum*, the Queene-prieſteſſe, and was wont vpon the Kalends of every month, to ſacrifice a Porker or a Lambe in her palace in the honour of *Iuno*.

aServ. in Aen. 10.

Cap. 16.

De Marte, ſive Mavorte, & Salijs Palatinis Marti dicatis.

Mars, otherwiſe called *Mavors* by the Figure *Epenthesis*, as we ſay *Induperator* for *Imperator*, was reputed the God of Warre, and ſo *Metonymicõs* is vſed for Warre; as *vario Marte pugnatum eſt*, the battel was doubtfull; *proprio Marte*, by ones owne ſtrength, and labour. He was the ſonne of *Iuno* onely, without company of her Husband: for when *Iuno* was greatly diſpleaſed vvith her ſelfe, that *Iupiter* by ſtriking his head without company of a woman did bring forth the Goddeſſe *Minerva*, ſhee by the counſell

counſell of the goddeſſe *Flora* touched a certaine flowre in the field of *Olenius*, by vertue whereof, ſhe immediatly conceiued the God *Mars*. This God, by reaſon of his dominion in warre, the Romans painted fiery, ſometimes in his chariot, ſometimes on horſebacke, with a Iauelin in one hand, and a Scourge in the other. In old coines there was ſomtimes the picture of a cocke ioyned with him, to ſhew the vigilancie, and careſulneſſe that ſouldiers are to vſe. Hee was called [x] *Gradiuus à gradiendo*, from marching in battell againſt his enemies. He had a Temple without the Citie, whence he was called *Extramurancus*. [y] Neere vnto this temple without the gate *Capena*, did lie a ſtone of great note, which vpon great droughts, the people would bring into the city, and preſently Raine would follow; wherevpon it was called the Raine-Stone. *Lapis manalis à manando*. *Numa Pompilius* in the honour of *Mars*, ſurnamed *Gradiuus*, ordained 12. dauncing Prieſts, called *Salij à* [z] *ſaliendo* from dauncing, which number afterward wee finde to haue been doubled by *Tullus Hoſtilius*, in the war againſt *Fidena*, a towne of the *Sabines*. The former 12 being called *Salij Palatini*, from the Palatine Mount, where they did begin their mauriske: the other, *Collini*, from the hill where their chappell ſtood; [a] and ſometimes *Quirinales*, and ſometimes *Agonales*: ſo that the whole colledge contained 24 prieſts. [b] The occaſion of their firſt inſtitution was this: Vpon a certaino time, in the reigne of *Numa*, the plague, or ſome other contagious ſickneſſe was very hot among the Romanes, inſomuch, that no ſacrifice, or holy offering could remoue it: at that time a certaine braſen Target, or Scutcheon, called in Latine *aneapelta*, or *ancile*, bigge at both ends, but cut like an halfe Moone on each ſide, fell from heaven into *Numa* his hands, with a certaine voice, promiſing all health vnto Rome, ſo long as that braſen target could be kept ſafe. Wherevpon *Mamurius*, a cunning workman, by the appointment of *Numa*, made eleuen other *ancilia* ſo like the firſt, that neither could be known from the o-

x Roſin, anti. lib. 2. c. 10.

y Roſin, Ibid.

z Plutarch. in Numa.

a Dion. Halicarn. l. b. 2.

b Plutarch. in Numa.

ther: (to the intent that if any ſhould be ſo wicked minded as to ſteale it, he might faile of his purpoſe by miſtaking one for another.) Theſe twelue Prieſts, had the cuſtody & keeping of them committed to their charge, and in the month of *Marsh* every yeere they apparelled themſelves with a party coloured coat, called *tunica verſicolor*, girt cloſe to their body, with a belt, or ſword-girdle, and a breaſt-plate of harneſſe, called *aenenm tegmen* vpon that, and a robe of eſtate called *tarbea*, claſped about them vpmoſt of all. Vpon their heads they did weare *apices*, *id eſt*, Caps [c] much like vnto the *Perſian* Bonnets, called in Greeke, κυρβασίαι, or τιάραι. They did ſomewhat reſemble our head-peeces in warre, made cloſe vnto the head, with a creſt of cloath vpon the top, whence ſome have called them *Galeas*. They being thus apparelled, danced about the *Forum*, or market-place, and the Capitoll with ſhort ſwords by their ſides, a Iavelin in the right hand, and their *ancile* in the other; vſing certaine Songs, either of the Gods, and thoſe they called *Ianualij*, *Iunonij*, and *Minervij*; or of men, and thoſe they called *examenta*, becauſe in thoſe Songs they did *axare*, *id eſt*, nominate and call vpon the names of ſome well deſerving men: as *Mamurius* which made thoſe eleauen Scutcheons, was often called vpon in thoſe Songs. Vpon their feaſtiuall daies they had excceſſe of cheere, whence [d] *Horace* hath vſed, *ſaliares dapes*, to ſignifie dainty fare.

[c] Dion. Halicarn. lib. 2.

[d] Horat. lib. 1. Ode. 37.

Cap. 11.

De Fœcialibus, & Patre-patrato.

THeſe *Fœciales* were Officers at Armes, or Heralds, to denounce warre, or proclaime peace, appointed thereunto at firſt [e] by *Numa Pompilius*. [f] The chiefe part of their Office was to diſſwade the *Romanes* from moleſting any confederate Nation with vniuſt warre: and if any confederate

[e] Pomp. Lætus de ſacerd.

[f] Dion. Halicar. lib. 2.

confederate Nation did offer iniury vnto the *Romane* people, then did theſe *Fœciales*, go as Embaſſadours vnto them; perſwading, and exhorting them to yeelde the *Romanes* their right: but if they continued thirty daies obſtinate, refuſing to yeelde vnto that which ſhould be iuſt and right, then did they preſently denounce warre againſt them, caſting forth a dart in token thereof: which denunciation was [g] called *clarigatio à clarâ voce, quâ vtebantur Fœcialis*. Others are of opinion, that whenſoever warre was denounced, this Herald at Armes, ſhould [h] turne looſe a Ramme vnto their enemies borders; ſignifying thereby, that their fieldes ſhould ſhortly become paſture for the *Romanes*: from which cuſtome wee ſay of one that challengeth another into the field, *Arietem emiſit*. Againe if the *Imperator*, or Lord-generall had done ought againſt his Oath, theſe *Fœciales* by their ſacrifice did avert the wrath of the Gods from him. The chiefeſt of them was called *Pater-patratus*, a perfect father: for he onely could be *Pater-patratus*, which had both children of his owne, and his father alſo aliue. They were called *Fœciales à fœdere faciendo*, from making a league or peace betweene Nations. This league which we in Latine do call *Fœdus*, the *Romanes* in old time [i] did call *Fidus*, as *Ennius* and *Pighius* witneſſe: whence theſe *Fœciales* were tearmed alſo *Ficei Flamines*.

g Serv. Aen. lib. 10.

h Vid. Eraſm. Adag.

i Pighius Septim. lib. 1.

Cap. 12.

De Duumviris, & Decemviris, & Quindecimviris, ſacris faciundis: item de Sibyllis.

THis Prieſt-hood had his firſt inſtitution, from *Tarquinius Superbus*, whoſe Office was, as well to expound, as to keepe the Oracles of thoſe tenne Propheteſſes ſo famous throughout the world, called *Sibyllæ*. Concerning whom [k] *Munſter* hath theſe words: In times paſt there came

k Munſter. in ſua Coſmog. lib. 2.

a ſtrange woman to *Tarquinius* the King offering nine bookes, full of the *Sibylline* Oracles to bee ſold: But *Tarquinius*, thinking the bookes too deere, refuſed to buy them. The woman departing, burned three of theſe bookes, and came the ſecond time vnto *Tarquinius*, demanding as much for thoſe ſixe bookes, as formerly ſhe had done for the nine. *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning againe vnto *Tarquinius*, and asking as much for the three left, as ſhe asked at firſt for all nine. Then began *Tarquinius*, more ſeriouſly to bethinke himſelfe thereof, & ſent for his *Augures*, asking counſell and adviſe of them. And they vnderſtood, by certaine ſignes obſerved, that the King had refuſed ſome ſpeciall goodnes ſent from the Gods: and for the bookes that remained, they adviſed, that the woman ſhould have what ſhe asked: As ſoone as the woman had delivered her bookes, ſhe preſently vaniſhed, and was never ſeene againe; onely warning them to keepe the books as ſafe as poſſibly they could. For the ſafe keeping of theſe, *Tarquinius* choſe two of the Noblemen, or *patricij*, calling them *Duumviri*, appointing them, as well by ſtudy to expound, as with care to keepe thoſe Oracles. In proceſſe of time, the people obtained, that ten ſhould be appointed to this office, [l] five of them being choſen out of the Commons, and five out of the Nobles: and then they were called, the *Decem-viri*. Afterward by *L. Silla*, as it is thought, five more were added, ſo that they were then called, the *Quindecim-viri*: nay the number was encreaſed by *Sylla* vnto forty, [m] as *Servius* thinketh, but ſtill called by the name of *Quindecim-viri*. Of theſe women that had the ſpirit of prophecy, ten were very famous: the firſt was called *Perſica*, the ſecond *Libyca*, the third *Delphica*, the fourth *Cumæa*, the fifth *Erythræa*, the ſixt *Samia*, the ſeventh *Cumana*, the eighth *Helleſpontia*, the ninth *Phrygia*, the tenth *Tiburtina*. They all Prophecied of the incarnation of *Chriſt*. The place where theſe bookes were kept, was within the Capitoll vnder

l Feneſte. de ſacerd. c. 13.

m Serv. Æn. lib. 6.

vnder ground in a cheſt of ſtone, where they remained ſafe vntill the burning of the Capitoll, at which time they alſo were burned. Notwithſtanding, many of the prophecies have beene knowne, partly by tradition, and partly beeing taken out of other Copies in other Countries. One of the prophecies concerning our Saviour Chriſt, was vttered by *Sibylla Delphica* in manner as followeth: [n] *Naſcetur propheta abſq; matris coitu ex vtero eius*, that is, There ſhalbe a Prophet borne without any copulation of the mother, even out of her wombe. It was ſpoken at *Delphos*. All their prophecies were of that certainety, that when we would averre any thing to be vndoubtedly true, wee vſe to ſay, it is *Sibyllæ folium*, as true as *Sibyllaes* Oracles. The *Cumæa Sibylla*, did write her Oracles at the mouth, or entrance of her Cave, in leaves of trees, which the fierceneſſe of the winde did oftentimes ſo ſcatter, that they could hardly be brought in order againe: inſomuch that when wee would ſhew the great difficulty of bringing things in order, wee may vſe [o] *Politian* his wordes, *Laborioſius eſt, quàm Sybillæ folia colligere*, it is eaſier to gather together *Sybillaes* leaves. This name *Sybilla*, is not a proper name, but an appellative, common to all women endowed with the ſpirit of prophecie, taking their denomination from [p] θεὸς, which is in the *Æolicke* dialect the ſame that Θεὸς, *id eſt*, God, and βυλὴ, *id eſt*, councel, becauſe they did open and declare the councell and determination of God vnto the people. It appertained alſo vnto theſe *Quindecim-viri* above mentioned, to ſee that ſacrifice, and divine ſervice, that ſupplications, and proceſſions, expiations, and all ceremoniall rites were duely performed.

n Munſter, in ſua Coſmog. lib. 2.

Crediteme vobis folium recitare Sibylla.

o Epiſt. lib. 1. epiſt. 1.

p Serv. Aeni. lib. 6. θεοὺς enim *Deos, non* θεοὺς: *& conſilium nõ* Cυλὴν *ſed* βυλὴν *appellabant Aeolico genere ſermonis. Lact. de falſa religione, lib. 1, cap. 2.*

Cap. 13.

De Bonâ deâ, & sacris eius.

THis Goddesse, which is so famous by the name of *Bona dea*, is the Globe of the earth, which is therefore termed *Bona dea*, the good Goddesse, because we reape so many good things from the earth. She is called also *Ops*, the helping Goddesse *ab ope*, from helpe, because by her helpe we live. She is called *Fatua*, and *Fauna, id est*, the Goddesse of speech, because young children doe never speake vntill they are able to goe, and so have touched the earth. The *Grecians* called her γυναικεῖα θεός, the Femall Goddesse, because that no Male might be admitted to her sacrifices; nay the very pictures of men were at that time to bee covered. The inner roome, where her sacrifices were, was called, τὸ γυναικεῖον, the place for womens assemblies. [q] Those that were chiefe in these sacrifices, were the Vestall Nunnes. This good Goddesse was supposed to be the wife of *Faunus*, & vpon a time to have bene taken drunk with wine by him: for which fault, *Faunus* is said to have beaten her to death with rods of Mirtle tree. But afterward, being sorrie for that he had done, in amends he made her a Goddesse: and as it were ever after detesting the Mirtle tree, hee hallowing all other hearbs, and flowers to be vsed in these sacrifices, forbad the Mirtle tree. Some say she was so chaste, that she never was seene by any man but by her husband, and in respect of her chastitie the Mirtle tree is forbid, because it was consecrated to *Venus*. But whereas in this sacrifice they vsed wine, they called it not by the name of wine, but milke or hony: [r] whence they called the vessell wherein the wine was put, *amphoram mellariam, id est*, the hony vessell. This sacrifice became very famous by reason of *Clodius*, who being in love with *Pompeia*, *Iulius Cæsars* wife, came vnto these sacrifices in womans apparell and

[q] Cic. orat. de Aruſp. reſponſis.

[r] Alex. Gen. dier. l. 6. c. 8.

was

was found out by *Aurelia, Iulius Cæſars* mother. This *Clodius* became ſo infamous for this, and other his adulterous prankes, that hee occaſioned a common proverbe amongſt the *Romanes, Clodius accuſat mœchos*, anſwerable to which our Engliſh ſaying is, One theefe accuſeth another.

Cap. 14.

De Cybelle, & ſacerdotibus eius.

THis Goddeſſe *Cybele*, or rather *Cybelle* was in her infancie expoſed vnto wilde beaſts, vpon the hill *Cybellus*, where ſhee being nouriſhed by the wilde beaſts, afterward became a woman of admirable beauty, and beeing found by a ſheapheards wife, was brought vp by her as her owne child, and called *Cybelle*, from the hill *Cybellus*. She excelled in all naturall guifts, and was the firſt that vſed a Taber and Pipe, and Cymbals among the Greekes. Moreover, ſhe tenderly loved children, and therefore was called *magna mater*: ſhee was alſo called *mater deorum*, the mother of the Gods.

Ipſa deûm fertur genetrix Berecynthia. Virg.

Shee was called *Rhea*, *à ῥέω*, to flow, becauſe ſhee doth flow and abound with all kinde of goodneſſe. She was alſo named *Peſſinuntia*, from the City *Peſſinus* a Mart-towne in *Phrygia*, where ſhe had a Temple. Moreover, ſhe was called *Berecynthia*, from the hill *Berecynthus* in *Phrygia*, where ſhe was worſhipped. Her Prieſts were called *Galli*, and their chiefe governour *Archigallus*: they tooke their name from a certaine River in *Phrygia*, called *Gallus*: of which whoſoever dranke, he became ſo mad, that he would preſently geld himſelfe: (as in truth all her Prieſts were enioyned to geld themſelves with a fiſh ſhell.) The originall of which cuſtome is rendred thus: *Cybelle* loved a young man of *Phrygia* called *Atys*: and him ſhe appointed chiefe overſeer for her ſacrifice (Pomp. Lætus de ſacerd.

fice vpon condition that he would keepe him ſelfe chaſt perpetually: But hee not long after defloured a Nimphe, for which fact, *Cybelle* bereft him of wits and vnderſtanding, ſo that hee in his madneſſe did geld himſelfe, and would have killed himſelfe alſo, [t] had not the Gods in their commiſeration towards him, turned him into a Pine-tree. In remembrance of him, ever after her Prieſts were gelded. Every yeere the *Prætors* did ſacrifice vnto this Goddeſſe. But the performance of the holy and religious rites at that time did belong vnto a *Phrygian* man, and *Phrygian* woman choſen for that purpoſe: which according to the manner of their Country being apparelled with a party coloured garment, called in Latine *Syntheſis*, or *amictus variegatus*, & carying the picture of their Goddeſſe about with them in the ſtreetes, they ſtroke their breaſts with their hands, keeping tune with the Tabers, Pipes, and Cymbals, which other people following plaied vpon: The Prieſts were alſo called *Corybantes* from one *Corybantus*, which was one of her firſt attendants. And hereupon we call the Cymball *æra corybantia*. In this manner dancing about the ſtreets, they begged money of the people whom they met: and hence were they named, *Cybelle* her collectors, or her *circulatores*, *ideſt*, Iuglers. Some called them μητραγύρτας from μήτηρ which in this place ſignifieth *Cybelle*, called the great mother, and ἀγύρτης a begger or gatherer of almes. [u] Others have called them *Mitricia*: But by what name ſoever they were called, the place was ſo infamous by reaſon of their drunkenneſſe, and vncivility vſed at theſe times, that when they would point out a notorious naughty fellow, they would call him, *circulatorem Cybelleium*, *Cybelle* her Iugler. Neither was it lawfull for any free borne to vndertake that office.

[t] *Cybelleius Atys Exuit hac hominem truncoque induruit illo.* Ov. Met.

[u] Roſin. ant. lib. 3. c. 27.

CAP.

Cap. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex*, is commonly tranſlated a Biſhop or Prelate, being called *Pontifices* in Latine, as alſo Pontifies in Engliſh from one part of their Office, which was to have the overſight of a great woodden bridge, called in Latine *Pons ſublicius*, being ſo great, that Carts & Waines might paſſe over it; having no arches to vphold it, but only great piles, and poſts of wood: [x] and that which is moſt remarkable in it, was that it was ioyned together onely with woodden pinnes, without any iron at all. Others are of opinion, that they were tearmed *Pontifices quaſi potifices*, from *potis* and *facio*, of which opinion *Lucane* ſeemeth to bee, according to that, *Pontifices ſacri quibus eſt commiſſa poteſtas.* [y] Concerning the number of them, onely foure were appointed by *Numa*, all which then were to bee choſen out of the *Patricij*: afterward foure more were added out of the Commons. Theſe were called *Pontifices maiores*, or chiefe Pontifies, to diſtinguiſh them from ſeuen other, which afterward *Sylla* added, and [z] called them, *Pontifices maiores*, inferiour Pontifies. The whole company of them was called the Colledge of Pontifies. This Colledge is priuiledged from all allegeance, being not bound to render an account of their doings either to the Senate or Commonalty. They were to determine all queſtions concerning religion, as well between their Prieſts, as betweene priuate men. They had authority to puniſh any inferiour Prieſt, if he either detracted or added vnto thoſe religious Rites, which were preſcribed him. They had their great Pontifie, whom they calley *Pontificem maximum*. Theſe Pontifies were wont to exceed in their diet, inſomuch that when the Romanes would ſhew the greatnes of a feaſt, they would ſay, it was *Pontificia cœna, id eſt*, according to our

x Plutarch. in Numa.

y Feneſt. de ſacerd.

z Roſin. antiq. lib. 3. c. 22.

our Engliſh phraſe, a feaſt for an Abbot. *Cœna adijcialis* is taken for the ſame. [a] *Lipſius* in the expoſition of the latter phraſe taxeth the Printers negligence, and is of opinion, that it ſhould rather be printed, *Cœna aditialis*, vnderſtanding thereby a ſolemne feaſt made by Magiſtrates in *aditu honoris*, at their entrance into their office, and at their day of inauguration.

a Lib. 4. de magnit. Rom. cap. 9.

Cap. 16.

De Epulonibus.

[b] THe Pontifies in old time appointed three men, whom they called *Triumviros Epulonum* (from *Epulum* a feaſt) to have the overſight of the feaſts made at ſacrifices; afterward by reaſon of two twice added, they were called firſt *Quinqueviri*, and at length *Septemviri Epulonum*.

b Lazius de Repvb. Rom. lib. 3. cap.

Cap. 17.

De Tutijs.

ANother ſort of religious men there were, which lived in the Suburbs of the City, and practiſed ſoothſaying: They were called *Tutij* [c] from the name of the birds which they obſerved, which in Latine were called *Titia*.

c Panciroll. lib. rerum deperditarum cap. de mole Hadriani.

Cap. 18.

De Virginibus Veſtalibus.

NEere vnto *Caſtors* Temple, ſtood the religious houſe or Nunnerie, dedicated to the Goddeſſe *Veſta*: where at the firſt were foure, after ſix Virgins, or Votaries elected

electe̅d, whoſe office was chiefly to keepe the ſacred fire: the extinction whereof preſaged ominous, and did portend ſome euill event ſhortly to happen: And therefore for their negligence herein as for all other ſmal faults, they being had into a darke corner, ſtripped naked, and a curtaine drawne halfe way ouer them, the chiefe Pontifie ſcourged them: neither was it lawfull to kindle the fire once put out, with any other fire, but from the ſun beames; for which purpoſe they had certain inſtruments named [c] *πυρεῖα*, which were formed in the manner of a *pyramis*, but hollow; ſo that the beames being collected within the circumference, and meeting in the *vertex*, did eaſily kindle any combuſtible matter put vnto it; but chiefly if the matter was of blacke colour; becauſe, as philoſophy teacheth, a darke colour doth congregate, or collect the beames, whereas whiteneſſe doth diſperſe them. A ſecond part of their office was to worke reconciliation betweene parties offended, as appeareth by [d] *Suetonius*: where we may reade, that by their interceſſion, *Sylla* was reconciled to *Cæſar*. They were choſen into this place betweene the ſixth, and the eleuenth yeere of their age: and they were to remaine in this Nunnery 30. yeares ſpace, 10. yeres to learne their ceremonies and myſteries, 10. yeares to exerciſe them, and ten yeares to inſtruct others: within which ſpace if they had ſuffered their bodies to be defiled, they were to vndergo that fearefull puniſhment * afore mentioned. But theſe 30. yeares being expired, marriage was lawfull for them, ſo that they laid aſide their ſcepters, their fillets and other their Sacerdotall ornaments. Notwithſtanding thoſe which did marrie, in the end dyed fearefull deaths: whereupon they choſe rather to abſtaine commonly. The *Romanes* had them in great honour, ſo that they never walked abroad, but with an yron ſcepter in their hands, and whatſoeuer malefactor met them (if the Nun would take her oath it was by chance) he eſcaped puniſhment. They were named *Veſtals* from their goddeſſe *Veſta*, which word (as [e] *Munſter* writeth) is diri-

[c] Plutarch. in Numa.

[d] Suet. in Iulio.

* Vid. ſup. p. 14.

[e] Munſt. in ſua coſmog. lib. 2. c. 9.

ved from the Hebrew *radix* signifying fire. The eldeſt was called *Maxima Veſtalis virgo, id eſt*, the Lady prioreſſe, or chiefe-governeſſe.

Cap. 19.

De veterum ſacrificijs & ritu ſacrificandi.

WHatſoever was burnt or offered vp vnto the Gods vpon an Altar, it had the name of a ſacrifice: and ſometimes it was called, *victima, quòd vincta ad aras ſtabat*, becauſe the beaſt to be ſacrificed, ſtood bound vnto the Altar. Sometimes, *Hoſtia*, from an obſolete verbe *Hoſtio*, which is to ſtrike: becauſe certaine vnder Officers called in Latine *Popæ* (ſtanding by the Altars, all their vpper part naked, and a Lawrell garland vpon their head) did *Hoſtiare victimam, id eſt*, ſtrike downe and kill the ſacrifice. Others are of opinion, that this name *Hoſtia*, is taken from *Hoſtis*, an enemy; according to that of *Ovid*: *Hoſtibus à domitis hoſtia nomen habet*; becauſe either before warre, to procure the Gods fauour; or after warre, in token of thankfullnſſe, they did *hoſtiam ferire, id eſt*, offer vp the ſacrifice. The ſecond difference of ſacrifices have bene occaſioned in reſpect of the time, & ſo they have beene called *Præcidaneæ*, or *ſuccidaneæ, quaſi præcedaneæ & ſuccedaneæ*. Thoſe ſacrifices which were offered vp the day before any ſolmne ſacrifice, were called *Præcidaneæ hoſtiæ*, fore-ſacrifices, as we Engliſh *præcurſorem*, a forerunner: which fore-ſacrifices, if by any token they found vnlucky, then would they offer vp a ſecond ſacrifice which they tearmed *hoſtiam ſuccidaneam*: and becauſe theſe ſecond ſacrifices were to be offered only in ſteed of the other, when they were vnlucky or faulty; hence hath *Plautus* vſed this ſpeech, *Meum tergum ſtultitiæ tuæ ſubdes ſuccidaneum?* Muſt I be whipped for thy fault? The manner of ſacrificing was as followeth. Some certaine daies before any ſacrifice was to

be

be performed, the prieſt was wont to waſh his whole body, [f] eſpecially his hands and feet, which if he had not waſhed, the ſacrifice was accounted polluted: and alluding vnto this cuſtom, we ſay, a man doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterpriſed any buſineſſe without due reverence or preparation therevnto.

[f] Vid. Eraſm. Adag.

Μηδὲ πρὸ ἠῶθεν ὁδὸν λείβειν αἰδοιαδόπον,
Χερσὶν ἀνιπτοισιν. *Heſiod.* ἐργ. καὶ ἡμερ.

Moreouer, the prieſt was to abſtaine from his marriage bed, as likewiſe from diuers kinds of meats, and at the time of his going to ſacrifices, either himſelfe, or ſome inferiour Sexton going before him, with a rod or wand in his hand (called *commentaculum*) [g] vſed this forme of words vnto the people: *Hoc age*, attend this you are about: which cuſtome ſeemeth to haue had its originall from the *Grecians*. For before the time of ſacrifice, the Grecia Prieſt vſed almoſt the like ſpeech vnto his people: as, τίς τις δὲ, *id eſt*, Who is here? the people anſwered, πολλοὶ, καὶ ἀγαθοὶ, *id eſt*, many men, and good. After this preparation, then did the Prieſt, laying his hand vpon the altar, rehearſe certaine prayers [h] vnto the God *Ianus*, and the Goddeſſe *Veſta*; becauſe the *Romanes* were perſwaded, that without their intercеſſion, they might not haue acceſſe vnto the other Gods. His prayers being ended, then did hee lay [i] vpon the beaſts head a little corne, together with a cake made of meale and ſalt, called in Latine *Mola*, [k] *Mola erat far toſtum, ſale oſperſum*. From this ceremony, the act of ſacrificing hath been termed *Immolatio*. After this, the ſoothſayer drank wine out of an earthen or woodden chalice, called in Latine *Simpulũ*, or *ſimpuuium*: It was in faſhion much like our ewers, when wee powre water into the baſon. This chalice was afterward carried about to all the people, that they alſo might *libare, id eſt*, lightly taſte thereof, [l] which rite hath been called *Libatio*. Now euery one hauing taſted thereof, the reſt of the wine with ſtankincence mixt in it, was to be powred vpon the beaſts head, [m] betweene the hornes,

[g] Plutarch. Numa.

[h] Serv. Aeneï. lib. 1.

[i] Pancirol. li. rerum de. erdit. c. de ſale Ammoniaco.

[k] Textor in ſua officina. *Spargeſalſa cola taurorum mola*. Sen. Oedip. Act. 2. ſc. 2

[l] Pancirol. lib. rerum deperdit. cap. de Ammoniaco ſale.

[m] *Media inter cornua fundit.* Virg. Aeneid.

one crying out with aloud voyce, *Macta eſt hoſtia, id eſt, Magis aucta*, more encreaſed and made more pleaſing vnto the Gods, as *Virgil* ſaith, *Macte nouâ virtute puer, id eſt*, O good child which encreaſeſt in vertue. And hence even from this tearme, we may coniect, that the word *Macto*, which ſignifieth to kill and ſometimes to ſacrifice, hath had its originall, becauſe they did immediately after that voice, *macta re hoſtiam*, that is, ſlay the ſacrifice, and that was done in this manner. [n] Firſt the Prieſt did pluck off ſome of the beaſts haires betweene the hornes, and caſt them into the fire, calling them his *primalibamina, id eſt*, his firſt offrings: Then did he, turning his face toward the Eaſt, draw a long crooked knife vpon the beaſts back, commanding his vnder Officers, which I called *Popæ* (others *Cultrarij*, from their knife; *Victimarij* from the hoaſt; and *Agones*, becauſe they ſtanding ready to give the ſtroake, often vſed this word *Agon*, for *Agòne, id eſt*, muſt I to my work?) to kill the beaſt. The other people ſtanding by, ſome did with veſſels ſave the blood, others did flea or skinne the beaſt; others waſhed it. Anon, ſome Soothſayer or Prieſt, did obſerve the entrals, turning & winding thē with a knife, which was called *Seceſpita, à ſecando*: for he might not touch thē with his hand, they conceiting, that if the ſacrifice had proued polluted, his hand would then have periſhed. Now after the Soothſayer or Prieſt had ſufficiently turned the entrals, & found no ill token therein, thē did thoſe *Popæ*, or Church-buchers, cut off from every bowell ſome portion, which after they had rolled in barly meale, they ſent it in baskets to the Prieſts. and the Prieſts taking it vp into a broad charger or platter, called *diſcus*, or *lanx*, laid it vpon the Altar and burnt it. and [o] this was properly tearmed *litare*, or *Reddere, id eſt*, to ſatisfie by ſacrifice, or to pay the ſacrifice, which was owen vnto the Gods After that the portion laid out for the Gods, had beene burnt, then did all the people repaire vnto a common feaſt; where, as they were eating, they ſung Hymnes, & Songs, in the praiſe of their Gods, and playing

n Roſin. antiq. lib. 3. c. 33

o Ioac. Camerar. pro Flacc.

ing on Cymbals, they danced about the Altars; intimating thereby, that there was no part of their body, but should be imployed in the seruice of their Gods. Now vntill all their Ceremonies and Mysteries were finished, it was not lawfull for any to taste of this feast: insomuch that we since have vsed to checke a glutton, or greedy-gut, which cannot abstaine from his meat till grace be saide, in this manner, *Sacra haud / immolata deuorat.*

CAP. 20.

De nuptijs, & nuptiarum renunciatione.

SEeing that marriages, and burials, have such dependence vpon the Priests, it will not bee amisse to conclude this Section, with two Chapters, briefly opening the Ceremonies of both. Before we come vnto the solemn Ceremonies, vsed by the *Romanes* in their marriages, wee will first shew the manner of their contracts, which were called by the *Romanes*, [a] *Sponsalia à spondendo*, because in their contracts, each did promise other to live as man and wife. Now the manner of contracting was commonly thus: They did for the greater security, write downe the forme of the contract vpon tables of record, as appeareth by *Iuvenal. Sat. 6.*

a Salmuth. in panciroll. lib. rerum deperdit. cap. de nuptiis.

Si tibi legitimis pactam, iunctumq́; tabellis
Non es amaturus ———

These tables were also sealed with the signets of certaine witnesses there present, who were tearmed from their act of sealing, *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothsayer, and the woman another, with whom first they would consult. Whence *Iuvenal. Sat. 10.*

———*Veniet cum signitoribus auspex.*

The token or signe which these Soothsayers in time of observing accounted most fortunate, was a Crow: [b] *Ea enim cornicum*

b Alex. Gen. lib. 2.

cum ſocietas eſt, vt ex duabus ſocijs alterâ extinctâ, vidua alterâ perpetuò maneat. The man alſo gaue in token of good will, a Ring vnto the woman, which ſhe was to weare vpon the next finger vnto the little of the left hand, [c] becauſe vnto that finger alone, proceedeth a certiane artery from the heart. The word *Nuptiæ*, which ſignifieth marriage, had its deriuation [d] *Nubo*, which verbe in old time, ſignified to couer: the cuſtome being, that the woman ſhould be brought vnto her husband, with a [e] yellow vaile (called *Flammeum*) caſt ouer her face. Againe, becauſe of the good ſucceſſe that *Romulus*, and his followers, had in the violent taking away of the *Sabine* women, [f] they continued a cuſtome, that the man ſhould come and take away his wife by a ſeeming violence, from the lap or boſome of her mother, or her next kinne. She being thus taken away, her husband did diſſeuer & diuide the haire of her head, with the top of a ſpeare, wherewith ſome Fencer formerly had beene killed. This ſpeare was called by them *Haſta cælibaris*, [g] & the Ceremony did betoken, that nothing ſhould diſioyne them, but ſuch a ſpeare, or ſuch like violence. The next day after the marriage, a ſolemne feaſt was held, where all the Bride-mans and Bride-womans friends met to make merry; this feaſt they called *Repotia*. We muſt note, that [h] three manner of waies, a woman became a mans lawfull wife: *vſu*, *confarreatione*, *coemptione*. A woman became a mans lawfull wife, *Vſu*, 1. By preſcription or long poſſeſſion, if that ſhe were wedded with the conſent of her overſeers, and ſo did liue with the man, as with her lawfull husband, a whole yeeres ſpace, *nullo interrupto vſu, id eſt*, [i] ſhe being not abſent from him three nights in the whole yeere. And ſome haue thought, that the counterfeited violence, in taking away the Mayde from her friends, was vſed onely in this kinde of marriage. 2. A woman became a mans wife *confarreatione, id eſt*, by certaine ſolemnities vſed before a Pontifie, or chiefe-Biſhop, when the woman was given vnto the man, vſing a ſet forme of words, ten witneſſes being preſent, & a ſolemne ſacrifice

c Aul. Gell.

d Roſin. ant. lib. 5. c. 37.

e Plin. lib. 21. cap. 8.

f Sig. de iur. Rom. l. 1. c. 9.

g Salmuth. in Pancirol. lib. rerum deperdit. cap. de nuptiis.

h Boeth. Topicor. 2. Vid. Cæl. Rhodig. lib. 28. cap. 17

i Sig. de iure. Rom. l. 1. c. 9.

ſacrifice being offered, at which the couple married ſhould eate of the ſame barly cake, which formerly had beene vſed in the ſacrifice. Which ſacrifice was tearmed, *a farre, confarreatio*, & the marriage it ſelfe, *Farracia*, [k] and ſometimes *ſacra* ſimply; the diſſolution of this kind of marriage *Diffarreatio*. A woman became a mans wife, *coemptione, id eſt*, by buying & ſelling, when the woman did vnder a feigned forme of ſaile, buy her husband, by giving him a piece of coyne. [l] *Veteri Romanorum lege, nubentes mulieres tres ad virum aſſes ferre ſolebant: atq; vnum quidèm quem in manu tenebant, tanquam emendi cauſâ marito dare.* [m] To theſe three ſome teach, that a fourth ſort of marriage was in vſe among the *Romans*; namely, when a woman became a mans wife, *ſortitione*, by a kind of lottery: and of this they ſay, *Sueton* ſpeaketh. [n] In that kind of marriage, which was *per coemptionem*, the man was not named by his proper name, nor the woman by hers; but the man was named *Caius*, and the woman *Caia*, in the memory of the chaſte and happy marriage of *Caia Cacilia*, wife to *Tarquinius Priſcus*: from whence ſprang a cuſtome among them, that the new married wife, when ſhe was brought home vnto her husbands houſe, was to vſe this proverbe. *Vbi tu Caius, ibi ego Caia*; by which words ſhe ſignified, that ſhe was now owner of her husbands goods, as well as himſelfe: and therefore *Eraſmus* hath expounded that ſaying, by theſe wordes; *Vt tu dominus, ita ego domina*, [o] And ſhe that was thus married, *Per coemptionem*, was properly called *Mater-familias*. [p] If any of theſe Ceremonies were omitted, then was the marriage tearmed, *Nuptiæ innuptæ*, in which ſenſe we call our enemies guiſts, no guiſts; Ἐκδῶρα δῶρα δῶρα. Theſe Ceremonies being ended, towards night the woman was brought home to her husbands houſe, with fiue Torches; ſignifying thereby, the neede which married perſons have of five Gods, or Goddeſſes, *id eſt*, *Iupiter*, *Iuno*, *Venus*, *Suadela*, and *Diana*, who oftentimes is called, *Lucina* (the reaſon of the name being rendred by *Ovid*.

k Cic. orat. pro Muræna.

l Sig. de iure. Rom. l. 1. c. 9.

m Sueton in Tiber. c. 35.

n Cic. orat. pro Muræna. Item Fr. Sil. ib.

o Cel. Rhodig. lib. 28. c. 17.

p Hieron. Ferarius in Philippic. orat.

—Dedit hæc tibi nomina lucus,
Aut quia principium tu Dea Lucis habes.

There are of opinion, who thinke that the vſe of theſe Torches, was not only to give light, but to repreſent the element of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*; for which reaſon the cuſtome likewiſe was, to beſprinkle the new married woman with water * yea they did both in time of their contract touch water and fire provided for that purpoſe. The ſignification of this Ceremonie, ſome thinke to be thus. The fire, becauſe it is an active element, to repreſent the man: the water, becauſe it is paſſive, to repreſent the woman. Others ſay that in the communitie of theſe two elements, was intimated the communitie betweene man and wife, of all other their goods and poſſeſſions, which was more fully declared in that forequoted proverbe, vſed by the wife. *Vbi tu Caius, ibi ego Caia.* The matter whereof theſe Torches were made, was a certaine tree, from which a pitchie liquor did iſſue: it was called *Teda*, and thence have the Poets figuratiuely, called both the Torches, and the Wedding it ſelfe *Tedæ*. When the woman had beene thus brought to the doore, then did ſhe annoint the poſts of the doore with oyle, q from which Ceremony, the wife was called *vxor, quaſi vnxor*. This Ceremonie of annointing being ended, the Bride-man did liſt her over the threſhold, and ſo carried her in by a ſeeming force, becauſe in modeſty ſhee would not ſeeme to go without violence into that place, where ſhee ſhould loſe her maidenhead. At her carrying in, all the company did cry out with a loud voice, *Talaſſio, Talaſſio*: for which cuſtome, r *Plutarch* alleageth many occaſions; this being one. Among thoſe who rauiſhed the daughters of the *Sabines*, there were found ſome of the meaner and poorer ſort, carrying away one of the faireſt women: which being knowne, certaine of the Citizens would have taken her from them, but they beganne to cry out, that they carryed her to *Talaſſius*, a man well

*Pancirol. lib. rerum deperd. cap. de nuptiis.

q Servius, Aen. lib. 4.

r Plutarch vita Pompeii.

well beloved among the *Romanes*, at which naming of *Talassius*, they suffered her to be carryed away, themselues accompanying her, and often crying *Talassio, Talassio.* From whence it hath beene continued a custome among the *Romanes*, ever at their marriages to sing, *Talassio, Talassio*: as the Greekes did, *Hymen, Hymenæc.* From this custome of leading or bringing home of the new married Bride, commeth that Comicall phrase, *Ducere vxorem*, to marry a wife. She being thus brought home, received the keyes of her husbands house, whereby was intimated, that the custody of all things in the house was then committed vnto her. [s] The marriage bed was called, *Genialis lectus*, as wee may suppose, *quasi Genitalis.* [t] Sometimes it was called, *Lectus adversus, quòd hunc lectulum religiosè servari mos fuit, & in atrio collocari, ianuæ ex adversùm, id est*, they placed this bed in the Court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received guifts of her friends, which the Lawyers tearme, *Nuptialia dona.* [u] But *Cicero* expoundeth these *Dona nuptialia*, to be certaine tokens, which the husband sent to his wife before the betroathing. If after the marriage, any discontent had fallen out betweene the man and his wife, * then did they both repaire to a certaine Chappell, built in the honour of a certaine Goddesse, called *Dea viri-placa, à viris placandis*, whence after thay had beene a while there, they returned friends. We have thus seene the Rites and Ceremonies, which the *Romanes* vsed in their contracts and marriages; it would not be impertinent to annexe the maner of their diuorcements, which vpon iust causes were permitted. There [x] were two manner of diuorcements, the one betweene parties only contracted; the second betweene parties married. The first was properly called *Repudium*, in which the partie suing for diuorcement, vsed this forme of words, *Conditione tuâ non vtar.* The second was called *Divortium*, wherein the party suing for it, vsed these words. *Res*

s Alex. Gen. dier. l. 2, c. 5.
t Lips. Elect. lib. 1. c. 17.
u Vid. Fr. Silv. pro Cluentio.
* Sig. de iure. Rom. l. 1. c. 9.
x Rosin. ant. l. 5. cap. 38.

tuas tibi habeto: vel res tuas tibi agito. Both theſe kinds were tearmed, *Matrimonij renuntiationes*, a renouncing or refuſall of marriage. Where we muſt note, that inſteed of this verbe *renunciare*, diuers good Authors de vſe this phraſe *Mittere*, or *Remittere nuncium*: as *C. Cæſar Pompeia nuncium remiſit*, *C. Cæſar* hath diuorced *Pompeia*. And alluding hereunto, *Cicero* ſaith, *virtuti nuncium remiſit, id eſt*, he hath caſt off all goodneſſe, he hath even divorced vertue. Secondly, we muſt note, that this verbe *Renuncio*, doth not onely ſignifie to renounce, or to refuſe, but many times in *Tully*, it ſignifieth to declare or pronounce a Magiſtrate elected, as *Renunciare conſulem, Prætorem, &c.* The reaſon why in matrimoniall contracts, it ſignified to renounce, or refuſe, was becauſe in theſe divorces, they did oftentimes ſend to their wife *per nunciũ*, by a Meſſenger, ſome bill or ſcroll of paper, containing the cauſes of the divorce. Moreover, we are to obſerve, that in theſe divorces, the ceremonies were quite contrary to thoſe in mariages; the iuſt cauſes of divorce being foreſignified to the Cenſors, the marriage tables were broken, the dowry reſtored, the keyes of the houſe taken from the woman, and ſhee turned out of doores: all which Ceremonies are at large treated of by *Thom. Dempſter lib. 5. Antiq. Rom. cap. 38.*

y Ep. fam. l. 5.

Cap. 21.

Quo apparatu, quibuſq; ceremonijs apud veteres defuncta corpora igni tradebantur.

THe *Romanes* in ancient time, when they perceived a body dying, had ſuch a cuſtome, that the next of the kinne ſhould receive the laſt gaſpe of breath from the ſicke body, into his mouth, as it were by the way of kiſſing him: (to ſhew thereby how loath and vnwilling they were to bee deprived of their friends) and likewiſe ſhould cloſe the eyes of the party being deceaſed. Whence *Anna* ſaid vnto her

her ſiſter *Dido* now dying.

——[f] *Extremus ſi quis ſuper halitus errat* [f] Virg. Aen. 4.
Ore legam——

And *Penelope* wiſhing that her ſonne *Telemachus* might outliue her ſelfe and his father, writeth to her husband in this manner, *Ille meot oculos comprimat, ille tuos.*

After the body had thus deceaſed, they kept it ſeuen dayes vnburied, waſhing the corps euery day with hot water, and ſometimes annointing it with oyle, hoping that if the bodie were only in a ſlumber, and not quite dead, it might by theſe hot cauſes be revived.

Per calidos latices & aliena vndantia flammis
Expediunt, corpuſque lavant frigentis & vngunt.

In theſe ſeven daies ſpace, all the dead mens friends met together now and then, making a great outcrie or ſhout with their voyces, hoping that if the dead body had been onely in a ſwound or ſleepe, he might therby be awaked. This action was termed *conclamatio*, whence when wee haue done the beſt we can in a matter, and cannot effect it, wee ſay proverbially *conclamatum eſt*: for this third conclamation or generall outcrie (which was alway vpon the ſeventh day after the deceaſe) was even the laſt refuge, at which if the bodie did not reviue, then was it carried to buriall beeing inveſted with ſuch a gowne, as the parties place or office formerly had required. Thoſe who had the dreſſing, cheſting or, embalming of the dead corps, were called *Pollinctores*: After they had thus embalmed the corps, they placed it in a bed faſt by the gate of the dead mans houſe, with his face and heeles outward toward the ſtreete, according to that of *Perſius*:

——*Tandemque beatulus alto*
Compoſitus lecto, craſſiſque lutatus amomis
In portam rigidos calces extendit.——

Herewith accordeth *Homer* ſpeaking of *Patroclus* his funerall. Οἵς μοι ἐγὶ κλισίῃ δεδαιγμένος ὀξέϊ χαλκῷ,
Κεῖται ἀνὰ πρόθυρον τετραμμένος.—— *id eſt,*

Qui mihi in tabernaculo confossus acuto ære,
Iacet ad vestibulum conversus.

This ceremony was properly called *corporis collocatio*: and fast by this bed, neere the gate also, was erected an altar, called in Latine,[t] *Acerra*, vpon which his friends did euery day offer incense vntill the buriall. The gate in the outside was garnished with cypresse branches, if the dead man were of any wealth or note: for the poorer sort, by reason of the scarcitie of the tree, could vse no such testimony of their mourning:

t Alex. Gen. dier. l. 3. c. 7.

u Lucanus. [u] *Et non plebeios luctus testata cupressus.*

In these seven dayes space, certaine men were appointed to prouide all things in readines for the funerall; which things were commonly sold in the [x] Temple of *Libitina*, from whence those prouiders were termed *Libitinarij*; though somtimes this word *Libitinarius* doth signifie as much as *capularis*, an old decrepit man, ready for the graue. Vpon the eight day a certaine cryer in maner of a bell-man, went about the towne to call the people to the solemnization of the funerall, in this forme of words: [y] *Exequias L. Titio L. Filio quibus est commodum ires. Iam tempus est. Ollus ex ædibus effertur.* After the people had assembled themselues together, the bed being covered with purple, or other rich coverings, the last conclamation being ended, a trumpeter went before all the company, certaine poore women called *præficæ*, following after, and singing songs in the praise of the partie deceased. Where we must note, that none but ỹ better sort had a trumpet sounded before them; others had only a pipe. [z] *Senatoribus & patricijs tubâ; minoribus & plebeijs tibiâ canebant fiticines*; this word *Siticines*, signifying either a trumpeter or piper, because they did both *ad fitos, id est, mortuos canere*. Againe, except it were one of the Senators, or chiefe citizens, he was not carried out vpon a bed, but in a coffin vpon a Beere. Those that carried this bed, were the next of the kin, so that it fell often among the Senators themselues to beare the corps,

x Alex. Gen. dier. l. 5. c. 26.

y Rosin. ant. lib. 5.

z Alex. Gen. dier. lib. 3.

corps, and becauſe the poorer ſort were not able to vndergoe the charges of ſuch ſolemnities, thereupon were they buried commonly in the duske of the evening; and hence *à veſpertino tempore*, thoſe that carried the corps were termed *veſpæ*, or *veſpillones*. In the buriall of a Senator, or chiefe Officer, certaine waxen images, of all his predeceſſors were carried before him vpon long poles or ſpeares, together with all the enſignes of honour, which he deſerved in his life time. Moreover, if any ſervants had beene manumized by him, they accompanied the mourners lamenting for their maſters death. After the corps followed the dead mans children, the next of the kinne, and other of his friends *atrati, id eſt*, in mourning apparell. From which act of following the corps, namely *à ſequendo*, theſe Funerall Rites have bene tearmed, *Exequiæ*, as *Donat* hath obſerved vpon that of *Terence*. *Funus interim procedit, nos ſequimur*. Which Rites, becauſe they were performed as debts due vnto the party deceaſed hence were they alſo called, *Iuſta*. *Eò dicuntur Iuſta, quòd iure mortuis facilitari debent à viuis, Polyd. de invent. lib. 6. cap. 9.* The corps being thus brought vnto their great Oratory, called the *Roſtra*, the next of the kinne [a] *laudabat defunctum pro roſtris, id eſt*, made a funerall Oration in the commendation principally of the party deceaſed, but touching the worthy acts alſo of thoſe his predeceſſors, whoſe images were there preſent. The Oration being ended, the corps was in old time carried home againe, in manner as it was brought forth.

a Suet. C. Iulius Cæſar. c. 6.

Sedibus hunc referant ſuis & condè ſepulchro.

But afterward by the law of the twelue Tables, it was provided that no man beſides the Emperour, and Veſtall Nunnes, ſhould be buried within the City; though ſome vpon eſpeciall fauour have obtained it. The manner of their buriall was not by interring the corps, as in former times it had beene, but burning them in a fire ([b] the reaſon thereof being to prevent the cruelty of their enemies, who in a mercileſſe revenge would at their conqueſts digge vp the buried bodies, making

b Salmuth. in Pancir. lib. rerum deperd. de exequiis.

king even the dead alſo ſubiects of their implacable wrath.) This fire before the burning, was properly called, *Pyra*; in the time that it burned, it was called, *Rogus*, [c] *quòd tunc temporis Rogari ſolerent manes*; after the burning, then was it called *Buſtum quaſi bene uſtum*. This *Pyra* was alwaies built in forme of a Tabernacle, as it is [*] above more at large to be ſeene: whither after the dead man had beene brought, his friends were wont to cut off one of his fingers, which they would afterward bury, with a ſecond ſolemnity. The charges at Funerals growing by this meanes to be doubled, the law of the 12. tables provided in theſe words, *Homini mortuo oſſa ne legito, &c.* that no mans finger ſhould be cut off, except he dyed either in the warre, or in a ſtrange Country. Where we muſt obſerve, that *lego* in this place doeth ſignifie as much as *adimo*, or *aufero*, in which ſenſe we call him, *ſacrilegum, qui legit, id eſt, qui admit & aufert ſacra*. After the dead body had beene laid vpon the *Pyra*, then were his eyes opened againe to ſhew him heaven if it were poſſible: [d] and withall an halfe penny was put in his mouth, they ſuperſtitiouſly conceiting, that that halfe penny was *nauium Charontis*, the pay of *Charon*, the ſuppoſed ferry-man of hell, who was to carrie mens ſoules in his boate over the *ſtygian* lake after their deceaſe. About this *Pyra* were firſt many boughes of Cypreſſe trees to hinder the evill ſent of the corps to be burned. The dead body being thus laid vpon the *Pyra*, the next of the kinne turning his face averſe from the *Pyra*, did kindle the fire with a torch: After this, commonly certaine Fencers hired for this purpoſe did combate each with other, till one of them was killed; they were tearmed *buſtuarij*, from *buſtum*. The blood of thoſe that were ſlaine, ſerved inſteed of ſacrifice to the infernall Gods, which kinde of ſacrifice they tearmed *Inferiæ*. [e] *Inferiæ ſunt ſacra mortuorum, quæ inferis ſolvuntur*. Anon after the body had beene burned, his neereſt friends did gather vp the aſhes and bones, which being waſhed with milke and wine, were put into certaine pitchers called *urnæ*: whence this word

[c] Seruius Æneid. 5.

[*] Sup. pag. 30

[d] Alex. Gen. dier. lib. 3.

[e] Servius.

word *vrna*, is often vſed by the Poets, to ſignifie a grave or ſepulcher, as

—*Vna requieſcit in vrnâ*: *Ouid. Met. lib. 4.*

f Though properly *ſepulchrum* was in old time, a vault or arched roofe, round about the wals whereof were placed certaine coffines called *loculi*, within which thoſe former *vrna* were laid vp and kept, namely, two or three in each coffine. Now theſe funerall ſolemnities were commonly towards night, inſomuch that they vſed Torches; theſe Torches they properly called, g *funalia à funibus cerâ circundatis, vnde & funus dicitur.* h Others are of opinion, that *funus* is ſo ſaid from the Greeke word φόνος, ſignifying death or ſlaughter. The bones of the buried body being thus gathered vp, then did the Prieſt beſprinkle the company with cleane water thrice, and the eldeſt of the mourning women called *præfica*, with a loud voice pronounced this word, *Ilicet*, thereby diſmiſſing the company, (the word ſignifying as much as *Ire licet;*) Then preſently did the company depart, taking their farewell of the dead body in this forme of words: *Vale, vale, vale: nos te ordine quo natura permiſerit ſequemur.* If any of theſe ceremonies had bene omitted i then was it termed *ſepultura inſepulta*, in the ſame ſenſe as *nuptiæ* formerly were tearmed *innuptæ*. The old & aged men were invited after the buriall, to a feaſt, or funerall banquet called, *ſilicernium* k *quaſi ſilicernium, id eſt, cœna ſupra ſilicem poſita*, their cuſtome being to eate that feaſt vpon an Altar of ſtone, and becauſe this feaſt was only eaten at funerals, and by the elder ſort, l hence figuratiuely this word *ſilicernium*, doeth ſometimes ſignifie an old cripple ready for the grave. The poorer people inſteede of a feaſt, receiued a dole or diſtribution of raw fleſh: this dole was tearmed *Viſceratio*. Moreover, there was a potation, or drinking of wine after the buriall called, *Murrata*, or *Murrhina potio*, which afterward the law of the 12. Tables for the avoiding of expences did prohibit: as likewiſe for the moderating of griefe in the mourners, it did prohibit the vſe

f Roſin. ant. lib. 5.

g Seruius in Æneid. lib. 1.

h Hub. in Cic. ep. fam. lib. 4.

i Hieron. Ferarius in Cic. orat. Philip.

k Servius in Æneid. lib. 5.

l Antefig. in Ter. Adelph. Act. 4.

of this word *Lessum*, [*Neve lessum funeris ergô habento*] for that word was often ingeminated in their mourning as a dolefull eiulation, or note of inward sorrow. This sorrowing or mourning, was in some cases vtterly prohibited, in others limited; [m]Namely, an infant dying before he was three yeeres old, should not be mourned for at all; because he had scarcely yet entred into his life. Elder persons were to bee mourned for so many dayes, as they were yeeres old. Wiues were permitted to mourne for their husbands (*Alexander* addeth also children for their fathers) ten months, if they would: within which time, the widdow could not marry another husband without infamy and discredit. *Polyd. de invent. lib. 6. cap. 9.* Here we may with *Rauardus* observe a distinction betweene *Lugere* and *Elugere*. *Lugere* signified no more then to mourne some part of the time prescribed; *Elugere* to mourne the whole and full time.

m Alex. Gen. dier. l. 3. c. 7.

LIB.

Lib. 2. *Sect.* 3.

Of the Romane Games.

Cap. 1.

De ludis Megalenſibus.

THE playes vſually exhibited by the *Romanes*, may be divided into three ſorts: ſome were *Ludi ſacri*, others *Honorarij*, others *Ludicri*. Thoſe were tearmed *Sacri*, which were inſtituted immediately to the honor of the Gods: ſuch were theſe that follow in their ſeverall Chapters. *Megalenſes ludi*, they are called ſimplie *Megaleſia*, from the Greeke word μέγας, ſignifying *Magnus*, becauſe they were performed in the honour of *Cybele*, called *Magna mater*, of which I have ſpoken formerly, and there alſo diſcovered the manner of this feaſt. Only here take notice of that which is not mentioned there, namely, that theſe Games beganne, *à pridiè Nonas Aprilis, id eſt*, on the fourth of *April*, and continued ſixe dayes after: it appeareth by divers Authors, but more eſpecially by *Ovid*, who could not eaſily be corrupted, *Ovid. Faſt. lib.* 4. He having ſpoken of the riſing of the *Pleiades*, which is on the ſecond of *April*, addeth.

Ter ſine perpetuò cœlum verſetur in axe,
Ter iungat Titan, terq́; reſoluat equos,
Protinus inflexo Berecynthia tibia cornus
Flabit, & Idææ feſta parentis erunt.

a Liv. lib. 29. This I note, that the error crept into [a] *Livy*, may be obſerved, who treating of the matter in hand, ſaith: *In ædem victoriæ, quæ eſt in Palatio, pertulere Deam pridie Idus Aprilis, iſq́; dies feſtus fuit: populus frequens dona Deæ in Palatium tulit; Lectiſternium & Ludi fuere, Megaleſia appellata.* That is, that theſe playes were celebrated vpon the twelfth of *Aprill*. But in the iudgement of many expoſitors, we are to read *Pridie Nonas*, for *Pridie Idus*. Moreovere, ſervants might not be ſpectators here, & becauſe the *Prætors* did frepuent theſe ſports, in their purple and beſt robes, [b] hence grew that proverbe, *Purpura Megalenſis*. To the younger ſort at this time, liberty was granted, to counterfeit all mens geſtures and ſpeeches, without diſtinction of degree or age. [c] They were ſometimes tearmed *Ludi ſcenici*, though properly, *Ludi ſcenici*, ſignified ſtage-playes, and were performed in the honour of *Bacchus*.

b Ant. Conſt. in Ovid. Faſt. lib. 4.

c Iu Scalig. poet. l. 1, c. 29.

Cap. 2.

Ludi Cereales.

THat theſe Games were performed in the honour of *Ceres*, is by none doubted. In them was repreſented by the *Roman* Matrons, *Ceres* her lamentation for her daughter *Proſerpina*, taken away by *Pluto*; the *Roman* men beheld theſe playes in white gownes: the women performed the ſacred and holy Rites in a white garment alſo. Among whom it was obſerued, that then they thought their ſervice gratefull to the Gods, when it was performed by thoſe that were ioyfull, and free from all funerall pollutions. At this time there was a ſolemne going in proceſſion, and carrying about their Gods in the Cirque, this ſolemnity was

pro

properly called *Pompa.*

Circus erat pompâ celeber, numeroque Deorum,
Primaque ventosis palma petetur equis,
Hîc Cereris ludi, &c. Ovid-*Fast. lib.* 4.

The maner of this solemne shew, which as I noted, was properly called *Pompa*, is described [d] thus by its particulars; That there was, *Simulachrorum series, imaginum agmen, currus, thensæ, armamaxæ, sedes, coronæ, exuviæ, id est. First* in this solemne processiõ, were carried about the Images of the Gods. *Secondly*, the images of well deserving men. *Thirdly*, Chariots led vp and downe for greater state and magnificence; vnto this *Virgil* alludeth:

——His illius arma
Hîc currus fuit.——

Fourthly, Pageants, so I interpret *thensæ*, which were so called, *quasi tensæ, à tendendo*, as [c] *Asconius* noteth, because they were carried vp and downe, by the helpe of certaine ropes, which to touch they counted a point of religion *Fiftly*, horslitters, for that these *armamaxæ*, were not Chariots, or wagons, appeareth by him, [f] *Qui ex curru in armamaxam deponebatur.* They seeme to haue been of a compounded forme, in part like chariots, called ἅρματα, in part like waines, called ἅμαξαι, and thence ἁρμάμαξα hath its appellation: ἁρμάμαξα, *inquit, Phavorinus*, ἢ πρὸς ἀνδρᾶν καθέδραν κατεσκευασμένη ἅμαξα, ὅθεν ἅρμα ἡ ἅμαξα, ἢ ἀνδραμάξα τὶς οὖσα, ἢ ἄγουσα τοὺς ἄνδρας. In which words, besides the etymologie expressed, the vse thereof is declared to be for the carriage of men. That as the chariots went emptie for greater magnificence, and as in their pageants were carried, the *Simulachra Deorum*, according to that, [g] *Thensa Deorum vehiculum*: so in these horsesliters were carried men, or rather that same *agmen imaginum*, which was the second particular. *Sixthly*, chaires of State. *Seventhly*, crownes. *Lastly*, spoiles taken from their enemies. These three last I take to haue been vsed chiefly and principally in the *Romane* supplications, or publique thanksgivings,

d Ter. respect. cap. 7.

e Vid. Franc. Iun. annot. in Tert. de spect. It. de tensis vi. Turneb. 29. 27

f Herodot. l. 7.

g Alex. ab Alex lib. 2. c. 30

givings, for any great victorie; the cuſtome being in ſuch ſhewes, when they came to ſuch and ſuch remarkable places in the cirque, to pitch a certain chaire, adorned with crownes of victorie, and ſpoyles taken from the enemy, reputing it not the leaſt office,[h] thus to honour their Emperour, though abſent, with the prerogatiue of ſuch a chaire. Now in the preparation to this particular Shew, we reade, that an egge was eſpecially provided. It is obſerved by[i] many out of *Macrobius*, whoſe words are; *Ovumq́ in Cerealis Pompæ apparatu numerabatur primum.* The obſervation is generall, but the reaſon thereof, *Inter arcana Cereris*, quite ſuppreſſed, & by none that ever I could meete with, yet explained; if my coniecture may ſatisfie in a matter ſo obſcure, conceiue it thus. Theſe pompous ſhewes were various, and in the honour of diuers Gods, and accordingly the *Romanes* made choiſe in every ſuch ſolemnitie, of ſome one principall thing in their ſhew, vnto which the glory of the preſent ſolemnity ſhould in more eſpeciall maner belong. Thus in the *Pompa circenſis*, which was celebrated in the honour of the[k] Sun, great horſes were led vp and downe for greater ſtate. [l] *Quia equis, & equeſtribus exercitamentis, ſol præeſſe credebatur ſuperſtitione antiquiſſima.* Hence the cirque place it ſelfe was called τὸ ἱππικὸν, & ἱππόδρομον. After this ſame manner in this *Pompa Cerealis*, (which was alſo ſometimes called *Circenſis*, from the place where it was exhibited) an egge was chiefly and principally provided: for ſeeing that vnder the name of *Ceres*, this ſolemnity was performed to the *Earth*, how could the *Earth* be more honoured, then by bearing about the hieroglyphick of the whole world? As if they did intimate thereby, that even heaven it ſelfe was beholding to the *Earth*.

——— Pecori frondes, alimentaque mitia fruges
Humano generi, vobis quoq́ thura miniſtro. Ovid. Met. l. 2.

And ſuch an hieroglyphick [m] *Cælius Rhodiginus* proueth an egge to be, partly from its circular & globe-like forme; partly from the matter whereof it conſiſteth; the hard ſhel, reſembling

h Vid. Iſaac. Caſaub. in Sueton. Iul. c. 76.
i Hoſp. de orig. feſt. Roſin. lib. 5. cap. 14. Alex. ab Alex. lib. 6. cap. 10.
k Solis honore novi grati ſpectacula circi Anti qui ſanxere patres. Corip. Afric. lib. 1. num. 17. vid. Dempſter. l. Franc. Iun. annot. in Ter. de ſpect c. 8.
m Cœl. Rhod. lib. 27. cap. 17

bling the ſolid earth; the more ſpirituous part thereof, the ayre; the moiſt and liquid part, the water; the yolke, the element of fire; yea he noteth alſo, that as there is, *in mundo*, ſo likewiſe, *in ovo, vis vitalis*, a kinde of quickening, and enlivening power in both. Otherwiſe if this opinion give not content, we may interpret the carrying about of this egge, to be in the honour of *Caſtor* and *Pollux*: for as there were markes, or goales in the Cirque, ſome in the forme of *Dolphins*, in the honour of *Neptune*: ſo were there others [n] ὠοειδῆ δημιουργήματα, markes of a long roundneſſe, in forme of an egge, in memory of [o] *Caſtor* and *Pollux*, which were *evo editi*; according to that of *Horace*:

[n] Dio, lib. 49.

[o] Tertull. de ſpect. cap. 8.

Ovo prognatus eodem. Hor. ſerm. 2. ſat. 1.

For the ſame reaſon happily it was, that an egge was at this time carryed vp and downe, as the chiefe & principal enſigne.

Cap. 3.

Ludi Florales.

THeſe Games or ſports, were inſtituted in the honour of the Goddeſſe *Flora*, that ſhe being therewith appeaſed, the earth might bring forth flowers, and fruits in great aboundance. Of the Goddeſſe it hath beene ſpoken before. The time of the yeere when theſe ſports were obſerved, [p] was vpon the foure laſt dayes of *April*, and the firſt of *May*, whence is that of *Ovid. Faſt. 5.*

[p] Alex. ab Alex. lib. 6. c. 8.

Incipis Aprili, tranſis in tempora Maij:
Alter te fugiens, cùm venit alter habet.

The manner thereof was, that ſhameleſſe ſtrumpets did then runne vp and downe the ſtreets naked, vſing many laſcivious and obſcene geſtures, and ſpeeches, they were called together by the ſound of a trumpet, vnto which *Juvenal* alludeth.

——Digniſſima prorſus
Floralis matrona tuba.

More-

Moreover, whereas in other games, Boare, Lyons, & Beares, were publiquely bayted, to recreate the ſpectators: here onely Goates, and Hares, and ſuch milder beaſts were hunted, [q] becauſe the Goddeſſe *Flora*, had not the cuſtody of woods, and Forreſts, where the wilder beaſts ranged; but Gardens, and Medowes. At this time alſo, Elephants were brought forth, into the publique view of the people, which were taught [r] to walke on ropes, and that there is an aptneſſe in Elephants to go forward and backward on ropes, [ſ] *Pliny* teſtifieth.

q Hoſp. de orig. Feſt.

r Suet. in Gal.

ſ Plin. l. 8. c. 3.

Cap. 4.

Ludi Martiales.

OF theſe ſports there is not much ſpoken: [t] they were obſerved vpon the firſt of *Auguſt*, becauſe on that day the Temple of *Mars* was conſecrated. They were firſt inſtituted [u] by *Numa Pompilius*.

t Dio. lib. 60.

u Tert. de ſpec. cap. 5.

Cap. 5.

Ludi Appollinares.

THere was an ancient Poet, called *Martius*, [*] out of whoſe writing, as likewiſe out of the *Sybilline* Oracles, the *Romanes*, were admoniſhed to dedicate certaine games to *Apollo*. At the firſt celebration of them, [x] it is reported, that a ſuddaine and vnexpected invaſion of enemies, enforced the *Roman* people to forſake their ſports, and to betake themſelves to weapons: in which time of their diſtraction, a cloud of darts and arrowes was ſeene to fall vpon their enemies, ſo that they preſently returned conquerours vnto their ſports, where [y] at their returne they found one *C. Pomponius*, an old man dancing to a minſtrell, and being very ioyfull, that their ſports had beene continued with-

* Liv. lib. 5. dec. 3.

x Macrob. l. 1. Sat. c. 17.

y Seut. Potup. Feſt. vid. Hoſ. de orig feſt.

without interruption they cryed forth, *Salvares eſt, ſaltat ſenex:* which ſpeech afterward became proverbiall, and is fitly vſed, when a ſuddaine evill, is ſeconded with a good event, beyond hope or expectation.

CAP. 6.

De ludis Romanis, qui & Magni, & Conſuales, & Circenſes dicti.

THeſe ſolemnities, are ſometimes called, *Romani ludi*, becauſe of their antiquity amongſt the *Romanes*, beeing firſt inſtituted by *Romulus*: ſometimes *Magni ludi*, either becauſe of the great charge and expence of mony at that time, or becauſe they were performed in the honour of their great God [a] *Neptune*, called alſo *Conſus*, becauſe he was reputed the God of ſecret *Counſels*, whence the ſolemnities themſelves are ſometimes called *Conſualia*: whereas many of the *Roman* Temples, for certaine miſterious ſignifications, had their peculiar manner of building. [b] *Servius* noteth, that the Temple of the great Cirque, dedicated to *Conſus*, was covered, to ſignifie that counſels muſt bee ſecreted, and concealed. Likewiſe for the ſame reaſon, [c] his Altar was made vnder the earth, not appearing in publique view, ſave onely in the time of theſe ſolemnities exhibited. The chiefe ceremonies vſed at this time, conſiſted in the adorning of their horſes, and aſſes, with garlands, wherein they thought that *Neptune* was honored, who was the firſt author and inventer of horſe-riding: hence *Neptune* himſelfe is called [d] Ἵππιος. This feaſtivall was firſt inſtituted by *Evander*, in the honour of *Neptune*, vnder the name of Ἵππιος, and [e] thence the feaſt was called Ἱπποκράτια. Afterward it was renewed by *Romulus*, in the honor of *Neptune* likewiſe, but vnder the name of *Conſus*, becauſe *Romulus* needed a God of counſell to aſſiſt him, in that deſignement of his, for the violent taking away of ſo many

a Tertull. de ſpect. cap. 5.

b Serv. in Virg. Aeneid. lib. 8.

c Alex. ab Alex. l. 5. c. 26.

d Vid. Suid.

e Dioul Hal. lib. 1.

Sabine women, as were taken away at the first celebration of these Games. The reason of *Romulus* his institution of them, being no other, but that vpon the fame of these new ports, many *Sabine* women flocking thither to be spectators, his proiect might be the sooner effected. These and the cirque-shewes, so often mentioned in ancient Authors, at first were all one, as appeareth by that of [f] *Valerius*. *Ad id tempus circenſi ſpectaculo contenta erat civitas noſtra, quod primus Romulus raptis virginibus Sabinis Conſualium nomine celebravit.* Touching these cirque shewes, some are of opinion, that they were performed in the honour of *Ceres*, this *Iulius Scaliger*[g] disliketh, & he is of opinion, they were celebrated in the honor of *Neptune*: others are of opinion, they were instituted in the honour of the Sun. All opinions may be reconciled, if we vnderstand first those Authors who ascribe these cirque shewes to *Ceres*, to speake of the *Cereales ludi*, which we read sometimes to be called *Circenſes*, because they were exhibited in the *Cirque*. Secondly, if we distinguish the *Pompa Circenſes*, from the *Circenſes ludi*, and from the *Cereales ludi*. The *Cereales ludi*, were instituted in the honour of *Ceres*; the *Circenſes ludi*, in the honour of *Neptune*; the *Circenſis pompa*, in the honour of the *Sunne*. And furthermore, for the full vnderstanding hereof, we must know, that the horses brought into the cirque at this time, were of two sorts: some were only πομπικοὶ, such as were led vp & downe, for shew and state; I vnderstand *Alex. ab Alex.* to speake of these horses, when he saith [h] horses were consecrated to the sunne; nay I vnderstand those horses mentioned, 2. *Kings* 23. to have bene of the like superstitious invention, where it is said: that *Iosiah*, did put downe the *Horses given* to the *Sun*, & the *Chariots of the Sun*. This practise, I say hath neere affinitie with this of the *Romanes*, but I thinke it to have beene originally derived to the people of *Iudah*, from the *Persians*, who also accounted horses holy to the Sun, [i] and the *Persian* King, when he would shew himselfe in great State, caused an exceeding great horse

f Val Max. li. cap. 4.

g Iul. Scal. lib. poet, cap. 32.

h Alex. ab Alex. l. 3. c. 12.

i Cœl. Rhod. antiq. lib. 8. cap. 2.

to

to be led vp and downe, which was called *Equus ſolis*. Other horſes were for exerciſe and race, we may call them ἱππικὰς, the inſtitution of theſe I ſuppoſe to have bene in the honor of *Neptune*. The prizes or maſteries exerciſed in time of this cirque-ſhewes were many; Fencing, and that vntill one of the Combatants were killed in the place; fighting with beaſts; wreſtling, running of races on foote, iumping and leaping, horſe-racing, ſea-skirmiſhes exhibited in ſome river, coach-races, and fighting at whorlebats. Howſoever the nature and manner of theſe games, are in ſome meaſure vnderſtood by the very names, yet a more large diſcourſe concerning the two laſt, will be very behoouefull, for the more full vnderſtanding of the *Roman* hiſtory. Theſe coach-racers, when this manner of race was firſt inſtituted, were divided into two companies, which they tearmed *Factiones albas & ruſſeas*: diſtinguiſhing each faction or company, by the different colour of their [k] coats. Afterward they were divided into foure companies, diſtinguiſhed alwayes by their colours: whence came that diſtinctiõ; *Factiones Praſina, Venetæ, Ruſſatæ, Albatæ*, which colours may thus be Engliſhed. The firſt ſignifieth a deepe green; the next a kind of ruſſet inclining to red; the third a Venice-blew, or Turky colour; and the laſt a perfect white. Of theſe [l] *Tertullian* ſpeaketh as followeth: *Aurigis, coloribus idololatriam veſtierunt, & ab initio duo ſolis fuerunt, albus & ruſſeus. Albus hyemi ob nives candidas: ruſſeus aſtati ob ſolis ruborem voti erant: ſed poſtea tam voluptate, quàm ſuperſtitione prouecti; ruſſeum, alij Marti, alij album Zephyris conſecrauerunt: Praſinum verò terræ matri, vel verno: Venetum cœlo & mari, vel autumno.* As the Emperour, ſo the people; ſometimes fauored one faction or company, ſometimes another, and accordingly as they fauoured the company, they would lay wagers on their ſide, which wagers they tearmed by a particular name *Sponſiones*, thus [m] *Túrnebus* interpreteth *Tertullian*, where he ſaith, that the people flockt to theſe races, ſometimes for one reaſon, ſometimes for another, but

k Henr. Salm. in Pancir. cap. de Circo Max

l Tertul. de ſpect. ca. 9.

m Turneb. adu. l. 8. c. 4.

sometimes [n] *sponsionibus concitatus, id est*, stirred vp with a desire of abbetting, or laying wagers. To these foure [o] *Domitian* in his time added two other companies, the one wearing cloath of gold, the other of purple: but these latter remained not long in vse. Their fighting at whorlebats, they tearmed, *bellare cestu*. The manner of this fight conceiue thus, the combatants had in each hand a strap of leather, with which each strooke at the other (for wee must know, that this kinde of fight, succeeded fistie-cuffe, and because in fistie-cuffes, the party striking, did by the blow as wel hurt his owne fist, as he did him that was strooken, hereupon they invented this other kinde of fight with leatherne switches:) these leatherne switches, they called *Cestus*, from the [p] Greeke κεστὸς, signifying a belt or girdle; to make the fight the more dangerous, they did in after times tye peeces of lead, or iron at the end of these leatherne strappes, so that they did with the force of the stroke, often dash out one anothers braines, and vnlesse by the weight of the ledd or iron, the strap might chance to fly out of their hands, they caused each strap to bee tyed fast to their armes, and shoulders: neither was this without reason, for those iron or leaden poyses, could not be but very weighty, being made in the bignesse and [q] forme of rammes hornes. Lastly, these cirque shewes, had their appellation *Circenses*, either from the great cirque, or shew-place, called *Circus Max*: where the games were exhibited; or from the swords wherewith the Players wer enuironed, as one would say *Circa enses*. They much resembled those *Grecian* game called, *certamina Olympica*, where the runners with Chariots, were hemmed in on the one side with the running Riuer, and on the other with swords, pitched point-wise, that they should hold the race on directly, and not swarue aside without danger. [x] Some have thought them to bee the same with *Ludi Gymnici*, so called from γυμνὸς, naked; because that those which did performe these kinds of exercises, did either put off all, or the greatest part of their cloathes, to the intent that they

[n] Tertul. de spect. ca. 16.
[o] Suet. in Domitian. ca. 7.
[p] Iul. Scal. lib. poet. cap. 22.
[q] Aldus Manut. lib. 2. de quæs. per epistolam epist. 8. vid. Rosin. ant. l. 5. c. 5.
[x] Rosin. ant. lib. 5. c. 5.

they might the more readily and nimbly performe their games; for which purpose they did also annoint their bodies with oyle. Whence we say, when a man hath lost his cost and labour, *Operam & oleum perdidit*; *oleum* in this place, signifying cost and charges, so that the proueibe was the same with that of the Coblers crow, *Opera & impensa periit*.

Cap. 7.

Lauds Capitolini, & Agones Capitolini.

The first institution of these games [r] *Liuy* sheweth, where likewise he intimateth the reason, why they were called *Capitolini*, to haue been in the honour of *Iupiter Capitolinus*, because hee preserued the *Capitoll*, when it was assaulted by the *Gaules*. We must distinguish these games from those other shewes, called *Agones Capitollini*, instituted by *Domitian*: for those *Ludi* were exhibited yearely, [f] these *Agones* euery fifth yeare. In those was celebrated the deliuerance of the *Capitoll*; in these, Rhetoricians and Poets, and men of other profession, contended for the victory: and hence [t] *Rosinus* thinketh, the *Poets Laureat* to haue taken their beginning. He is likewise of opinion, that *Iuuenal* alludeth vnto these solemnities,

[r] Liu. Dec. 1. lib. 5.

[f] Sueton. in Domit. cap. 4

[t] Rosin. antiq. lib. 5. c. 18

——*Sed cum fregit subsellia versu*
Esurit, intactam Paridi nisi vendit Agauen. Sat. 7.

Although the allusion may be granted, yet herein I think *Rosinus*, though otherwise learned, to haue been mistaken, in interpreting *Fregit subsellia*, by *Non stetit*; *Excidit*, or *Non placuit*; as if the Poet, of whom *Iuuenal* speaketh, had been conquered at this time. In my opinion, neither will the purpose of *Iuuenal*, nor that phrase of speech admit that construction. Not the purpose of *Iuuenal*, for the scope and drift of that Satyre, is to shew, that be the Poet neuer so pleasing, or let him giue full satisfaction to the people, yet hee shall receiue

no benefit thereby, but a vaine and empty applause, so that he shall be compelled to sell those very Poems, which are receiued with so generall an approbation, to buy victuals, and preuent hunger. Neither doth that interpretation agree with that phrase, for *Frangere subsellia*, doth rather on the contrary, signifie the vehement acclamation giuen by the people in approbation of the Poem, it being a poeticall elegancy to expresse the vehemency and greatnesse of the applause. [u] *Sidonius Apollinaris* vseth the selfe same phrase; *Hunc olim perorantem, & rhetorica sedilia plausibili oratione frangentem, socer eloquens vltro in familiam patritiam asciuit.* Neither is that of *Virgil* vnlike:

u Sidon. Ap. l. 5. epist. ad Sapand.

Et cantu querulæ rumpunt arbusta cicadæ.

Yea, the *Grecians* vsed the same maner of speech, [x] κατέρρηγνυτο πᾶς ὁ τόπος, ὑπὸ τῆ Κρότυ, καὶ τὲς κραυγῆς. So that hereby I thinke the Poet vnderstandeth, that *Grande sophos*, so often mentioned by *Martial*, it being a vsual custome amongst the *Romanes*, to signifie their approbation of their orator or Poet, by the lowd acclamation of Σοφῶς, or ὀρθῶς. Vnto which *Horace* alludeth *de arte poet*:

x Polyb. in hist. 15.

———*clamabit enim pulchrè, benè, rectè.*

But to returne whence we haue digressed, these later solemnities were of such note, that whereas the *Romanes* formerly made their computations of their greater yeare, called *Annus magnus*, by their *lustra*, [y] now they made it by these *Agones Capitolini*. Again, we must distinguish these *Agones quinquennales*, instituted by *Domitian*, from those *Ludi quinquennales*, instituted by [z] *Augustus Cæsar*, in memory of the victory which he got against *Antonius*, vpon the promontorie *Actium*, whence they were called *Actiaci Ludi*.

y Hospin. de orig. fest.

z Sueton. Aug. cap. 18.

CAP.

Cap. 8.

De ludis ſæcularibus.

AVthors agree not vpon the iuſt period of time, when theſe ſecular games were to be renewed; ſome are of opinion that they were to bee celebrated every hundreth yeere; ſome every hundreth and ten: but in this all agree, that they were named *ſæculares*, from *ſæculum* which ſignified at leaſt an hundred yeeres,[a] *ſæculum in centum annos extendi exiſtimabant*. Becauſe the full and compleat age of a man, might extend it ſelfe to the hundreth yeare, and ſeldome to many aboue an hundred: thence it was, that the forme of words vſed by the publike cryer in proclaming theſe games was [b] *Venite ad Ludos quos nemo mortalium vidit, neq; viſurus eſt*. Vnto which [c] *Ovid* alludeth, *Triſt. lib.* 2.

a Roſin. ant. lib. 5. c. 21.

b Pol. Virg. de inuent. l. 8. c. 1.

c Ov. Triſt. l. 2

Carmina——

Inſſerat & Phœbo dici, quo tempore ludos
Fecit: quos ætas aſpicit vna ſemel.

But the Emperours being ambitious of honour, and deſirous to be ſpectators of the games in time of their owne Reigne, they did often anticipate the time. *Claudius Cæſar* amongſt the reſt, proclaimed them within [d] ſixty three yeeres, after *Auguſtus* had obſerved them, which occaſioned the people to deride his crier, inviting the people to thoſe ſhewes and ſports, which no man living either had ſeene or ſhould ſee againe. Becauſe [e] ſome who were ſpectators, nay Actors in thoſe ſolemnities exhibited by *Auguſtus*, lived at that ſame time, when *Claudius* cauſed this to bee proclaimed. Theſe Plaies were alſo [f] called *Tarentini ludi*, not from the Citie *Tarentum* in great *Greece*; but from a certaine place of the ſame name neere *Rome* adioyning to the river *Tiber*. All the Theatres at this time were filled, & ſacrifices offred throughout all the Temples, for the ſpace of three dayes, and three nights

d Alex. ab Alex. l. 6. c. 19.

e Suet. Claud. cap. 21.

f Hoſpinian. de orig. feſt.

nights, which giveth light to that of *Ausonius*.

Trina Tarentino celebrata trinoctia ludo.

The first day the Emperour, and the *Quindecimviri*, early in the morning ascended the *Capitoll*, and there offred sacrifice, according to their wonted manner, thence they departed to the Theatres, to performe solmne playes in the honor of *Apollo*, and *Diana*. The second day, the noble Matrones assembled together in the *Capitoll*, they offered vp supplications vnto their Gods, they feasted and sung hymnes, in the honour of the Gods. The third day, seuen and twenty boyes, going along three and three, and as many maides in like manner, all of them Nobly descended, and having both father and mother alive, sung verses, in which they commended the *Roman* State, to the protection of the immortall Gods. This was tearmed *Paeanas concinere*, which word *Paean*, though it signifieth primarily an Hymne or Song of praise made to *Apollo*, who was called *Paean*, [g] from παίειν, *à feriendo*; because of his victory gotten of the *Python*: yet [h] sometimes, and so in this place, it denoteth the praises in generall of all the Gods. Againe, the phrase intimateth an elevation of the voice in singing, with a kinde of rising from one note to another. Thus *Turnebus* maketh παιανίζειν, & μετρίζειν, to be opposite, [i] *Videtur autem paean contentionis vocis esse, minuitio remissionis.*

g Cœl. Rhod. antiq. lib. 7. cap. 5.

h Servius in Aeneid lib. 6.

i Turneb. adu. l. 1, c. 12.

Cap. 9.

De ludis plebeijs, compitalitijs, Augustalibus Palatinis, Taurilibus, & Votivis.

OTher games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow. First, *Plebeij ludi*, [k] which were celebrated in memory of the liberty procured to the *Roman* State, by the succession of Consuls in the place of

k Alex. ab Alex, l. 6. c. 19.

of Kings: or as others say, in memory of the reconciliation wrought betweene the Senators & the Comonalty, by reason of their great oppression at that time, when the Commons in a kind of mutinie, departed to the *Aventine* Mount. 2. *Compitalitij Ludi*, so called, becauſe they were vſually ſolemnized in *Comcitis*, (*id eſt*) in the croſſe wayes and open ſtreets, [l] they were firſt ordained by *Seruius Tullius*, in the honour of thoſe Gods, whom they termed *Lares*, in memory of his nativity. The forme of words vſed by the *Prætor*, when he ſignified to the people the time of theſe ſolemnities, was as follo weth. [m] *Die noni poſt Calendas Ianuarij Quiritibus compitalia erunt.* Concerning which words, [n] *Gellius* noteth, *Die noni Prætor dicit, non die nono, neque Prætor ſolùm, ſed plaraq; omnis vetuſtas ſic locuta eſt.* 3. *Auguſtales ludi*, performed in the honour of *Auguſtus Cæſar*. 4. *Palatini ludi*, ſo named, becauſe they were performed in the *Palatine* Mount. Some are of opinion, that they were inſtituted in the honous of [o] *Iulius Cæſar*; others in the honour [p] of *Auguſtus*. 5. *Taurij ludi*, which receiued their name, from *Taurus*, a bull: They were firſt ordained by [q] *Tarquinius ſuperbus*, when there happened a great peſtilence amongſt the women with child, occaſioned by much bull-fleſh ſold vnto the people, for the remouall of which plague, theſe games were inſtituted, in the honour of the infernall Gods. They are ſometimes alſo called *Boalia*, & *Bupetij*. 6. To theſe may we adde their *Votiuos ludos*, which were alſo performed in the honour of ſome God, vpon ſome ſpeciall vow made. For whenſoeuer the *Romans* did vndertake any deſperate warre, then did ſome *Romane* Magiſtrate *Vovere ludos, vel templa*, conditionally that they got the conqueſt. Whilſt the Magiſtrate vttered this his vow, he was ſaid *Vota nuncupare*, or *facere vota* (*id eſt*) to make a ſolemne vow vnto the Gods; [r] The vow being thus made, he which made it did write it in paper, and with wax faſtened it to the knees of their Gods, thereby binding himſelfe the more ſtrongly to the performance; and this in *Pliny* his phraſe is *ſignare vota*:

[l] Plin. lib. 36. cap. vlt.

[m] Macrob. l. 1. Satur.

[n] A. Gell. noct At. l. 10, c. 24.

[o] Alex. ab Alex. l. 6. c. 19.

[p] Dio. lib. 56. cap. vlt.

[q] Feſt. vid. Hoſpin. de orig. feſt.

[r] Turneb. adver. l. 1, c. 17.

Iuvenall termeth it,

Genua incerare deorum. Satyr. 10.

After this he was ſaide to be *Voti reus, id eſt*, conditionally bound, & obliged to the performance therof, ſo that the Gods might challenge the thing vowed, as a due debt, if they granted his requeſt; yea, after that the thing craved had beene obtained, then was he ſaid, *Damnatus voti, vel voto (id eſt)* ſimply bound to the performance of the vow, ſo that by conſequence, *Damnari voti, vel voto*, is to have ones deſire accompliſhed. Thus have we gone over the chiefe and principall games which were meerely *Sacri*, tending to religion; the ſecond ſort were, *Ludi honorarij*, of which in the next chapter.

Cap. 10.

De gladiatura.

SVch ſports and playes, which were performed by private men, vpon their owne purſe and charges, they ſeeking thereby to winde themſelues into the affections of the common people, and to make way for their owne perferment and honour, were termed, [a] *Ludi honorarij*; and howſoever any game or ſhew, might be tendered vnto the people in this reſpect, yet thoſe of this nature, were for the moſt part, either *Fencing*, or *ſtage-Playes*: *Fencing*, becauſe the ſight thereof was ſo often freely beſtowed vpon the people, is therefore many times denoted by the Latine word, [b] *Munus*; and thoſe that beſtow theſe ſights, are for the ſame reaſon termed *Munerarij*. The firſt originall of this Fencing, & ſword playing, to the killing of one another, hath beene deriued [c] from a cuſtomary practiſe among the Heathens, at the burials of their friends, who being perſwaded that the ſhedding of mans blood, would bee propiciatory for the ſoule deceaſed, hence would they buy captives and ſlaves, purpoſely to to be ſacrificed at burialls: afterward that this wicked ſpecta-

cle

a Iſaac. Caſaubon. in Suet. Aug. 32.

b Lipſ. Sat. lib. 1. c. 7.

c Tertull. It. Servius in Æneid. 10.

cle might be the more pleasant and delightfull, they changed their sacrifice into a Fencing with Art, where the combatants did fight for their life. This particular kinde of Fencers were called *Bustuarij*, from *bustum*, the place where dead mens bodies were burned; but ambition & cruelty, made these bloody spectacles in after ages more frequent, insomuch that prizes at last were played, not onely at the Toombes, but in divers other places, as the *Cirque*, and *Amphitheatre*, &c. yea they were giuen as legacies, by will and testament vnto the people, the prizes have continued many dayes together, and the number of the Combatants sometime exceeded number. At the first, none would thus hazard their lives, but captives and fugitive seruants, which were enforced thereunto, being bought for that purpose; afterward those that were free-borne suffered themselues to be hired, for which cause they were termed *Auctorati*, hirelings; [d] yea Noblemen themselves sometimes by reason of their decayed estates, sometimes to demerit their Emperour his loue, endangered their lives in this fight; those that were hired, bound themselues by a solemne oath, to fight vnto death, or els they would yeeld their bodies to be whipt, yea and to be burnt; vnto which [e] *Horace* alludeth:

d Sen. ep. 100.

e Serm. 2. 5.

Quid refert, vri, virgis ferroq́, necari
Auctoratus eas? an turpi clausus in arcâ?

The manner of this bloody spectacle was thus: the Master or exhibiter thereof, did by a publique bill, give notice vnto the people, what day the prize should be performed, how many couples were to combate, what their names, &c. thereby to procure the greater expectation and concourse of people; of this speaketh [f] *Sueton. Munus populo pronunciauit in filiæ memoriam.* [g] Yea they did in tables hanged in publique view, paint and represent, not onely the description of the place, but also the very forme and gesture of the Fencers.

f Sueton. in Iulio.

g Plin. 35. 7.

——*velut si*
Rerera pugnent, feriant, vitentq́, mouentes

Arma viri. Horat. lib. 2. Sat. 7.

Vpon the day appointed when all met, then were the weapons brought forth, and those, they were of two sorts; *Lusoria*, or *Exercitoria tela*, such as were the speare, and wands, or cudgels, that they might tosse the one, and fence with the other, and shew other feates of actuitie, all being but preparations to that more solemne and dangerous fight ensuing. The Greekes calleth them, ἐσφαιρωμένα ἀκόντια, because of the little balles tied at the sharpe end of the weapons, to preuent dangers. Others were [h] *Decretoria tela*, so called, *Quia hæc velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encountred each other for life or death, and therefore sometimes they are called *Pugnatoria*, [i] *Seneca* speaketh of both: *Remoue ista lusoria arma, decretorijs opus est.* And that the Apostle doth not allude to both, I dare not gainesay, 1. *Cor.* 9. 26, 27. where hee saith, οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων, ἀλλ' ὑπωπιάζω μου τὸ σῶμα. He did not beate the ayre, and flourish with those lusorious, and preparatory weapons, but he did truly fight against his naturall corruption, to the wounding and subduing of it; for [k] so ὑπώπια signifieth **putrified wounds**. That phrase of [l] *Senecaes* alluding to the fore-flourishings, is not much vnlike. *Aliud est ventilare, aliud pugnare.* This fore-skirmish with cudgels was properly termed *præludium*: *Megara* speaking of *Hercules* his conquest ouer the two Serpents, assaulting him being yet an infant, saith, [m] *Prælusit Hydræ, id est*, that combate was but the prologue, preface, or introduction to that greater, which should ensue betweene him and the *Hydra*. Afterward when they betooke themselues to naked weapons, and to a reall fight, then were they said *Dimicare ad certum*, and *Versis armis pugnare*. This word [n] *Versis* being put for *Transmutatis*. In the act of fighting, they did frame and compose their body according to the rules of their Art, for the better warding of themselues, and the readier wounding of their aduersary. This frame and positure of the body,

h Lips. Sat. l. 2 cap. 19.

i Senec. epist. 117.

k Suid. in voce ὑπώπια.

l Sen. l. 3. cont.

m Sen. Herc. fur. vers. 221.

n Lips. Sat. l. 2 cap. 19.

body, was by a peculiar name, called *Status*, or *Gradus*. Whence aroſe thoſe elegant Metaphors *Cedere de gradu*: *Demigrare de gradu*; To change ones purpoſe, and as it were to draw backe from what he formerly intended. In like manner we ſay, *De mentis ſtatu deijcitur*, or *deturbatur*; He is driuen to change his mind, or in generall he is amazed: In the conflict oftentimes, the ſword-players after they had receiued any dangerous wounds, laid downe the weapons, which though in extremity was a token of cowardiſe, neither were they therevpon acquitted or diſcharged; but this depended vpon the conſent either of the Emperour, or the people, or the Maſter of the ſhew. This diſcharge was properly called *Miſſio*. Such was the cruelty of thoſe times, that many prizes were proclaimed, wherein they fore-ſignified, that ſuch diſcharges ſhould neither be craued, nor granted: wherevpon ° *Auguſtus Cæſar* made a decree, wherein *Gladiatores ſine miſſione edi prohibuit*. Thoſe combatants that ouercame, receiued by way of reward, ſometimes mony, ſometimes a garland, or coronet of palme-tree, wound about with certaine wollen ribbands, called *Lemniſci*; the coronet it ſelfe was therefore called ᵖ *Palma lemniſcata*, and hence figuratiuely hath *Palma* been tranſlated to ſignifie the victory it ſelfe, and ſuch a man as hath often gotten the prize, we ſay prouerbially, that he is *Plurimarum palmarum homo*. The reaſon why the Palme-tree, rather then any other tree, ſhould bee giuen in token of victory, is rendered by ᵠ diuers approued authors to be this; becauſe the Palme tree, though you put neuer ſo ponderous and heauy waight vpon it, yet it will not yeeld, but rather endeauour the more vpward. Sometimes the reward giuen by the people, was one of thoſe wands or cudgels vſed in the fore-skirmiſh. That wand was properly called *Rudis*, and it was giuen in token of liberty, ſignifying therby, that he ſhould thence-forward leade his life free from ſhedding of blood, alluding to which cuſtome, this word ʳ *Rudis* hath been vſed to ſignifie any other kind of free-

° Suet. Aug. 45

ᵖ Franc. Sylv. in orat. pro Sext. Roſc.

ᵠ Ariſt. probl. 7 Plut. ſymp. 8 q. 4. A. Geli. l. 3. c. 6.

ʳ Eraſ. Adag. Rudem accip.

dome or discharge: Whereupon, *Horace* said of himselfe, that he was *Rude donatus, id est*, discharged from his paines in Poetry. Lastly, sometimes he that conquered, received *Pileum*, a cap: And here it will not be amisse, to note the difference betweene *Palma*, *Missio*, *Rudis*, and *Pileus*. *Palma* was onely a token of victory, not of liberty, or discharge. *Missio* was no full discharge, but a kinde of vacation, or respite, granted vpon request, vntill the morrow, or some other time. Againe, it was granted to those that were conquered, not to the conquerers. *Rudis* was a token of full discharge from bloody combats, whereby a mans life might be endangered; but yet with this distinction, that if it were bestowed vpon free Citizens, hired to be Actors in these masteries, then were they thereby restored to their freedome also, which formerly they forfeyted, by vndertaking such base conditions: to others which were formerly servants, or captives, it was onely a token of liberty and discharge. Notwithstanding sometimes vpon favour, such seruants or capitves, obtained together with their discharge from such fights, a priviledge also of enfranchisement, whereby they were thence forward, incorporated amongst free Citizens; the token hereof was *pileus*, for then they received a Cap, which latter observation helpeth for the vnderstanding of *Tertullian*, when he saith; [f] *Qui insignioris cuiq; homicidæ leonem poscit, idem gladiatori atroci petat rudem, & pileum præmium conferat.* In which speech, the vniust, and the vnreasonable practise of the Heathens is displaied, whilst they iudge a manslayer to be exposed to Lyons and wilde beasts; and yet notwithstanding, will reward the bloodinesse of sword players. These Fencers sought with divers manner of weapons, and accordingly had severall names, the chiefe of which we reade are these: 1. *Retiarij*, so called from *rete iaculum*, signifying a flote-net vsed in fishing, because this sort of Fencers, did fight with a cast-net in one hand, to catch, and claspe about their adversaries head; and a three forked engine in the other, which they vsed insteed of a sword

[f] Ter. de spect. ca. 21.

ſword. Of this *Iuvenal* ſpeaketh. *Satyr.* 8.

——*Monet ecce tridentem.*

They did alwaies fight in their coates, whence that Epitheton floweth, *Retiarij tunicati.* The reaſon why they bore vp and downe ſpunges, which *Tertullian* calleth *ſpongias retiariorum*, may be for the drying vp of the blood, and wiping, or ſtopping of the wounds; which vſe of ſpunges [t] *Pliny* noteth. Now becauſe theſe *Retiarij* were ſo light armed, they were compelled every time they ſtrooke with their net, to retire backe vntill they recovered their net againe: and hence the ſecond ſort of Fencers, which fought with them, were tearmed [u] *Secutores, ab inſequendo*, from following and purſuing theſe *Retiarij.* The weapons wherewith theſe *Secutores* did fight, were a Target, to keepe off the net of the adverſary, a ſword, and an Helmet. 3ly, *Thraces*, ſo called from the *Thracian* weapons which they vſed, their Target was round and little, called *Parma*, it was at firſt in vſe among the [*] *Thracians*, and afterward ſo proper to this ſort of ſword players, that [x] *Parmularius* ſignifieth ſuch a one as favoured the company, or faction of Fencers. Their ſword was a crooked faulchion, tearmed by them *Sica.* [y] The *Roman* ſouldiers did vſe to weare two of theſe, a long one on the left ſide; and a ſhorter on the right ſide, anſwerable to our ſword and dagger: but the forme of the *Sica*, was alwaies crooked, according to that, *Sica Θρακικὸν ξίφος ἐπικαμπὲς.* Privy murtherers practiſing the killing of men, may ſeeme to have vſed the leſſer, as a pocket dagger; ſuch are thoſe *Sicarij* of which there is ſuch often mention in *Tully.* 4ly, *Myrmillones*, they are ſometimes called *Galli*, becauſe they were appointed after the maner of [y] *Gaules*, their weapons were, a Sword, a Target, an Helmet with a creſt in forme of a fiſh. 5ly, *Hoplomachi*, the name imports them to be armed in their fight, it is derived from the Greeke "οπλον, *vel* "οπλα, *arma*, and μάχομαι, *pugno*: vntill *Auguſtus* his time, they were named *Samnites*; their armour was an Helmet, with a tuft on the Creſt, a Sword, a Sheild, and a Boote on the

t Plin. l. 31. c. 11.

u Lipſ. Satur. lib. 2. c. 7.

* Turn. Adv. lib. 5. cap. 10.

x Suet. in Domit. cap. 10.

y Alex. ab Alex. lib. 6. c. 22

the left legge. 6ly. *Provocatores*, ſometimes called *Probatores*, theſe vſually fought with the *Hoplomachi*; their armour was a ſword, a target, an helmet, and bootes on their legs. For as the footemen amongſt the ſouldiers; ſo likewiſe, ſome of the ſword-players vſed bootes, for the ſafeguard of their legges, theſe bootes were made of * iron, and ſo common amongſt the *Grecians* in warre, that bootes alone are oftentimes put to expreſſe the *Grecians* whole armature, as appeareth by that vſuall Epitheton in *Homer*, Ἐυκνήμιδες Ἀχαιοι, *id eſt*, *Benè ocreati Græci*. Theſe bootes they wore ſometimes on both legges, ſometimes on one, according as the manner of fight required. 7ly, *Eſſedarij*, ſuch as fought one againſt another out of wagons, ſo called from *Eſſedum*, a wagon or charriot. 8ly, *Andabatæ*, *quaſi* ἀναβάται, *aſcenſores*, becauſe they did fight on horſe-backe, or out of Chariots. This ſort of Fencers did fight winking, whence ariſeth that Adage, *Andabatarum more pugnare*, the phraſe is fitly vſed, when two ignorant perſons are hote in contention about that which neither vnderſtandeth. 9ly, *Dimachæri*, called alſo *Orbelæ*, they fought each againſt the other, with two ſwords a peece, as the firſt name importeth. 10ly, *Laquearij*, ſuch as fought with ſwords and halters, the vſe of the halters, was the ſame as the *Retiarij* made of their nets, to caſt about their aduerſaries neck or arme, that they might the eaſier wound them with their ſword. Of all theſe ſorts of Fencers [1] *Lipſius* treateth largely, to whom I referre the reader. Onely here let him take notice, that it was in the power of the people, to diſcharge any of theſe Combatants in time of the fight, which diſcharge they ſignified *premendo pollicem*, by holding downe their thumbe: or elſe to adiudge him to continue the fight, though in neuer ſo great danger, and this latter they ſignified, *conuertendo pollicem*, by turning vp their thumbe.

* Veget. vide Lipſ. de milit. lib. 3. dial. 7.

[1] Lipſ. Satur. 2

—*Et verſo pollice vulgi*
Quem licet occidunt populariter. *Iuven. Sat. 3.*

Moreouer, that there might be alwayes in readineſſe, a ſufficient

ent number of ſword-players, hence were there ſchooles erected, into which, captiues, fugitiue ſeruants, and notorious offenders, were ſometimes condemned, ſometimes ſold. The Maſters of these ſchooles were called, *Laniſtæ*. the ſcholers or vnder-Fencers, trained up there for more publique & dangerous fights, were called *Familiæ*. The word *Familiæ*, is often taken in this ſenſe, to ſignifie the whole company of vnder-Fencers, belonging to one ſchoole, and the Maſter of defence, is for this reaſon, more then once by [m] *Sueton* called *Paterfamilias*. Moreover, when one challenged another to theſe combats, they ſignified their challenge, by beckning with their little finger. *Horace* alludeth vnto this,

Criſpinus minimo me prouocat, accipe ſi vis,
Accipe iam tabulas. lib 1. *Serm.* 4.

This muſt be vnderſtood of a beckning, and that with the little finger; for otherwiſe in time of the fight, if either of the Combatants did hold vp his finger, [n] he ſignified thereby that he did yeeld, and giue place vnto his adverſary: ſome thinke that *Perſius* had reſpect vnto this cuſtome, in this phraſe.

——— *Digitum exere, peccas. Sat.* 5.

m Sueton. in Calig. 26. It. in Domit. 10.

n Alex. ab Alex. lib. 4. c. 26

Cap. 11.

De ludis Scenicis.

THE ſecond ſort of plaies beſtowed on the people for their fauour, were *ludi Scenici*, ſtage-plaies. The reaſon of this name *ſcena*, may bee ſeene before. [x] The firſt inſtitution of them, was occaſioned by reaſon of a great ſickneſſe, which by no medicinary helpe could be remoued; The *Romans* ſuperſtitionſly conceiting, that ſome new games or ſports being found out, the wrath of the Gods would thereby bee vnarmed [y] Whereupon, about the foure hundreth yeere after the building of *Rome*, they ſent for certaine ſtage-players, out of *Hetruria*, which they called *Hiſtriones*, from

x Lazius de Repub. Rom. l. 10. c. 11.

y Alex. Gen. dier. l. 6. c. 19.

the *Hetrurian* word *Hiſter*, which ſignified ſuch a player. *Quia Hiſter Thuſco verbo ludius appellatur, id nomen Hiſtrionibus eſt inditum. Polidor, de inuen. lib.* 3. *cap.* 13. Concerning the divers kinds of ſtage-playes, I reade of foure, called by the *Grecians*, *Mimica*, *Satyra*, *Tragœdia*, *Comœdia*: by the *Romans*, *Planipedes*, *Atellana*, *Prætextatæ*, *Tabernariæ*. In Engliſh, **Fables Mimicall, Satyricall, Tragicall, Comicall.** Theſe Mimicall players, did much reſemble the clowne in many of our Engliſh ſtage playes, who ſometimes would go a tip-toe in deriſion of the mincing dames; ſometimes would ſpeake ful-mouthed, to mocke the country-clownes; ſometime vpon the top of their tongue, to ſcoffe the Citizens. And thus, by their imitation of al riduculous geſtures or ſpeeches, in all kinde of vocations, they provoked laughter; whence both the playes and players were named *Mimi*, from μῖμος an imitator, or one that doth Ape like counterfeit others: as likewiſe they were called *Planipedes*, becauſe the Actors did enter vpon the ſtage, *planis pedibus, id eſt*, [2] *Excalceati*, barefooted. The ſecond ſort of playes were called *Satyræ*, [3] from the laſcivious and wanton country-Gods, called *Satyri*, becauſe the Actors, in theſe *Satyricall* playes, did vſe many obſcene Poems, and vnchaſt geſtures, to delight the ſpectators. Afterward theſe kind of actors as we may coniect, did aſſume ſuch liberty vnto themſelves; that they did freely, and without controlement, ſharply taxe and cenſure the vices even of Kings, as well as of the Commons; inſomuch that now wee call every witty Poem, wherein the lives and manners of men are ſharply taxed, A *Satyre*, or *Satyricall* Poem. [b] *Satyra mordax fuit & falſum genus carminis.* Theſe *Satyricall* playes were alſo caled *Attellana*, from the City *Attella* in *Campania*, where they were often Acted. The third ſort of ſtage-plaies, were called, *Tragœdiæ*, from τράγος, a goat, and ᾠδή, an ode or ſong; becauſe the Actors thereof, had a Goat given them as a reward. And likewiſe they were called, *Prætextatæ*, from *Prætexta*, a certaine *Romant* robe, which theſe Actors did vſe to

[2] Alex. Ib.

[3] Antefignan. in ſuis obſer. de metris comicis Teren. præfixis.

[b] Vid. Eraſm. Adag. Κωμῳδεῖσθαι σατυρικοῖ.

to weare in their plaies. The fourth ſort were *comœdiæ*, from κῶμαι, which ſignifieth villages, and ἀοιδή: becauſe theſe kinde of Actors did go vp and downe the Country acting theſe *Comodies* in the villages as they paſſed along. They were likewiſe called, *Tabernariæ à tabulis, id eſt*, from the boards or pentices wherewith they were ſheltred from the weather, whilſt they were acting. Theſe two laſt ſorts of plaies, namely, *Tragedies*, and *Comedies*, being ſtill in vſe amongſt vs, it will be worth our labour, to conſider the communities wherein they agree; and likewiſe the proprieties or notes of diſtinction by which they differ. I finde three ſorts of parts, wherein they agree, namely, *partes primariæ, acceſſoriæ, circumſtantes*; parts principall, acceſſory, and circumſtances, which are not ſo truly parts, as accidentall ornamerts added to beautifie the playes. The principall parts are foure in reſpect of the matter treated of. For as farre as the declaration or expoſition of the matter in hand reacheth, without intimation of the event to enſue, ſo farre reacheth the firſt part called πρότασις, which word ſignifieth no more then a propoſition or declaration. But when the play inclineth to its heate and trouble, then enſueth the ſecond part, called Ἐπίτασις, which ſignifieth the intention or exaggeration of matters. The third part is called, κατάςασις, *id eſt*, the ſtate and full vigour of the play. The laſt part, which is an expected change into a ſuddaine tranquillity and quietneſſe, is called καταςροφή: whence by a *metaphor* it hath beene tranſlated to ſignifie the end or period of any other thing; or rather the inclination vnto the end, as *vitæ humanæ cataſtrophe*, the end of a mans life. In reſpect of the Players forſaking the ſtage, the parts were five; namely, the five Acts. For the Actors did five times in every *Comedie* and *Tragedie* forſake the ſtage, and make as it were ſo many interruptions. The occaſion whereof is ſuppoſed to have beene this: That the ſpectators might not bee wearied out with a continued diſcourſe or action, but that they might ſometimes be delighted with variety intermixed. For thoſe breaches

ches and chasmes betweene each Act, were made vp and supplyed, either by the *Chorus* or *Musicke*. Where we must note that every *Tragedy* and *Comedie*, must have five *Actus*, and no more, according to that of *Horace*.

Neve minor quinto, neu sit productior actu
Fabula, ——

Againe, we must remember that it is not necessary that the πρότασις should alwaies be contained in the first Act, though many times it hapneth so: for in *Plautus* his bragging souldier the *Protasis* is found in the second Act: and so likewise have the other three parts, *id est*, *Epitasis*, *Catastasis*, and *Catastrophe*, their bounds vnbounded. These Acts are divided into seuerall Scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a Scene beeing c *Mutatio personarum*: Whence wee call a subtle *Gnatho*, which can humor himselfe for all persons and times, *omnium scenarum hominem*, A man fit for all parts. Now amongst the *Romanes* it was thought vnfit, that aboue three persons should come on the stage in one Scene.

c Vid. Erasm. Adag.

Nec quarta loqui persona laboret. Hor.

The *partes accessoriæ* in a *Comedie* are foure, *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subiect of the Comedy: the second is the Prologue, which is either ὑποθετικὸς, such as doth open the state of the fable, at which time there needeth no argument; or else συστατικὸς, such as commendeth the fable, or the Poet vnto the people; or lastly, ἀναφορικὸς, such as shall refute the obiections and cavills of aduersaries. The third is *Chorus*, which speaketh betweene each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female: d but with this caution that if a male be to be commended, then must the *Chorus* consist of males; if a female bee to bee commended, then must it consist of females. And alwaies whatsoeuer the *Chorus* speaketh, it must be pertinent to the Act past, or couertly intimating somewhat ensuing.

d Rosin. ant. cap. de trag. & com. lib. 5.

——*Non*

——Non quid medios intercinat actus,
Quod non proposito conducat & hyreat aptè. Horat.

It may seeme sometimes, that in the midst of the play, some other sport was interposed, as hunting, or fencing, or such like to delight the spectators with the greater variety, whēce *Horat.* *Si discordet eques, medio inter carmina poscunt*
Aut vrsum aut pugiles.

These interposed varieties were denoted by the name of *Diludia*; *Displicet iste locus, clamo, & Diludia posco. Horat.* The fourth and last accessory part, was *Mimus* the Clowne, or Foole of the play. Of all these parts, a Tragedy hath only a *Chorus*. The *partes circumstantes*, or accidentall ornaments, were foure, common to both, *Titulus, Cantus, Saltatio, Apparatus, id est*, the Title of the play, Musicke, Dancing, and the beautifying of the Scene. By the Scene in this place, I vnderstand the partition betweene the players vestry, and the stage or scaffold. This partition at the acting of a Tragedie, was vnderpropped with stately columnes and pillars, and beautified with paintings resembling princely buildings, and the images as well of Gods as Kings. At the acting of a Comedy, country cottages and priuate buildings were painted in the out-face of the partition. In the *Satyricall* playes, the painting was ouercast with shadowes of mountaines and woods. The [e] first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyricam*. The differences betweene a *Tragedy* and a *Comedy*, which may bee collected out of [f] *Antesignanus*, are these: first, in respect of the matter, because a *Tragedy* treateth of exilements, murders, matters of griefe, &c. a *Comedy* of loue-toyes, merry fictions, and petty matters, the one being δεινῶν περιοχὴ; the other τύχη ἐπερίστασις. In a Tragedy, the greatest part of the Actors are Kings and Noble persons; in a Comedy, priuate persons of meaner state and condition. The subiect of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a Tragedy is calme

e Alex. Gen. dier. l. 5. c. 16

f Antesig. in suis observ. de metris comicis Teren. præfixis.

2

3

4

calme and quiet, the end fearefull and turbulent; but in a Comedy contrarily, the beginning is turbulent, and the end calme. Another difference which *Anteſignanus* hath omitted, is behoofefull for to know, namely, that the Tragedians did weare vpon the ſtage a certaine ſhooe, comming halfe way vp the legge in manner of buskins, which kinde of ſhooe was called by them *Cothurnus*, and from that cuſtome it hath been occaſioned, that *Cothurnus* is tranſlated, to ſignifie a Tragicall and lofty ſtile, as *Sophocleo digna Cothurno*, matters beſeeming *Sophocles* his ſtile; and ſometimes a Tragedy it ſelfe. The Comedians did vſe an high ſhooe comming vp aboue the ankle, much like a kind of ſhooes which ploughmen vſe to weare, to keepe themſelues out of the durt. This kind of ſhooe is called *Soccus*; by which word ſometimes alſo is ſignified a *Comedy*, as

Nigris medium impediit crus Pellibus. Horat. Ser. l. 1. Sat. 6.

Hunc ſocci cepere pedem, grandeſque Cothurni. Horat.

§ All theſe ſorts of ſtage-playes, both *Mimicall*, *Satyricall*, *Tragicall*, and *Comicall*, if they were acted according to the *Grecian* rite and cuſtom, then were they called *Palliata* from *Pallium*, a certaine mantle which the *Grecians* did vſe to weare: if according to the Romane manner, then were they called from the *Romane* gowne, *Togata*.

§ Anteſig. ib.

Cap. 12.

De Triano ludo, ſive Troia.

IT was a cuſtome among the *Romanes*, ſometimes in the yeare to haue a generall muſter of the younger ſort, who meeting in the cirque, exerciſed there, running, racing, riding at tilt, and other ſuch like feates of actiuity, whereby they might be trained vp for their better ſeruice in the war. They choſe a Captaine, one or other of noble birth: [a] Hee was called *Princeps iuventis*. They deuided themſelues into diſtinct companies, ſometimes marching forward, one againſt another,

[a] Hoſpin. de orig. feſt.

ther, ſometimes retiring backward, ſometimes skirmiſhing, ſometimes imbatling themſelues in one forme, ſometimes in another, as if it were a true field pitcht. A large and full deſcription hereof we have in *Virg. Æn.* 5. This game was called *Troianus ludus*; or ſimply [d] *Troia*, without the addition of any other word, becauſe *Aſcanius Æneas* his ſonne, firſt brought it out of *Troy*, according to that of *Virgil*, in the fore-quoted place,

Hunc morem, curſus, atq́, hæc certamina primus
Aſcanius, longam muris cùm cingeret Albam,
Rettulit, & priſcos docuit celebrare latinos.

d Suet. in Iul. cap. 39.

Among other ſports vſed at this time, [e] there was alſo a kinde of morisk dance, wherein the young men danced in harneſſe, after a warlike manner, being thereby trained, to exerciſe all parts of their body, by ſundry geſtures, as well to avoyde all venues, and defend themſelues; as to annoy and offend the enemy. This kinde of dance is generally called *Pyrrhica ſaltatio*; becauſe it was inuented by [f] *Phyrrhus*. Yea [g] ſome ſay, that *Suetonius* taketh *Troianus ludus*, and this *Pyrrhica ſaltatio*, for one and the ſame thing. Nay *Alexander* confoundeth both theſe, with thoſe other games termed *Iuuenales ludi*. But doubtleſſe herein he was miſtaken, for thoſe *Iuuenalia*, were inſtituted by [h] *Nero* [i] at the ſhaving of his beard, and had not their name, becauſe young men were the chiefe Actors, [k] but becauſe old men would now by the practiſe of youthfull ſports, turne young againe. The actions at thts time were ſo farre from ſauoring of military diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

e Alex. ab Alex, l. 6. c. 19.

f Plin. l. 7. c. 56.

g Seruius in l. Æn. It. Alex. ab Alex. loco ſupra citato.

h Sueton. in Meron. c. 11.

i Cœl. Rhod. lib. 19. c. 22.

k Roſin. Roman. ant. li. 5. c. 22.

CAP.

Cap. 13.

De teſſeris, talis, & latrunculis.

BEfore we treate of the game called, *Ludus teſſerarius*, it will not be amiſſe, firſt to cleare the word *teſſera*, from all ambiguitie. The word hath foure remarkeable ſignifications, all alluding to matters of antiquity. Firſt, it ſignified, a watch-
1 word among the ſouldiers in the campe, whereby they diſ-
o Alex. ab Alex. l. 4 c. 2. cerned their enemies, or ſpies from their owne fellowes; o *Alexander ab Alexandro*, giueth many examples hereof: *Auguſtus Cæſar* in his campe, gaue for his watchword, *Venus genetrix*. *Pompeius magnus* gaue for his, *Hercules inuictus*, &c: and this was called, *Teſſera militaris*. 2ly, there was *Teſſera frumentaria*, a certaine ticket, or token giuen by the Magi-
2 p Sueton. Aug cap. 40. ſtrate vnto the poore, at the tendring whereof, p at the beginning of every month, certaine doles and meaſures of corne were giuen; it is euident, that at firſt there were ſuch monthly diſtributions of corne, even by that endeauour of *Auguſtus* his, who for the avoyding of trouble, would had reduced all to three ſet diſtributions in the yeere, but prevailed not: ſometimes inſteed of corne, or happily over and aboue the corne, there were at certaine times, doles of mony giuen to the poore, which dole whoſoever receiued, tendred his token or bill of exchange, termed *Teſſera nummaria*; theſe two laſt acceptions, although they may be diſtinguiſhed, yet becauſe they both tended to the relieſe of the poore, I haue ioyned them together. Thirdly, there was *Teſſera hoſpitalis*, a
3 certaine token of wood, or ſuch like matter, which vſually was cut in two by thoſe who had engaged themſelues mutually to entertaine each other, whenſoever entertainement ſhould becraued, yea this wodden ticket or tally being mutuall accepted, it was lawfull for their poſterity, bringing this token, to challenge hoſpitality. Thus he in *Plautus*, having

ving formerly vsed *Antidomus* as his hoast, after *Antidomus* his death, hee commeth vnto *Antidomus* his adopted sonne, not doubting of entertainement, for saith he: *Deum hospitalem, ad tesseram mecum fero.* Hence from this custome, of tendering a token when hospitality should be craued, that Adage hath beene derived: *Tesseram hospitij confregit, id est.* Hee hath broken the league of hospitality. Lastly, *Tessera* signifieth a Die, where we must note, that the word *alea*, which commonly is translated a Die, is a generall word, applyed equally, both to the *Tesseræ*, and the *Tali*, to denote the vncertainty of both games. *Tessera*, properly signifieth a Die; *Talus*, an huckle-bone, such wherewith children play Cockall. In determining the seuerall chances in these playes, Authors are not onely divers, but in many things contrary each to other, neither can any certainty bee gathered from their writings; whether my coniectures drawne from comparing their severall and contrary writings, may giue light, for the right vnderstanding of decayed knowledge herein, I shall willingly submit my selfe to the censure of the iudicious. The seuerall chances which I reade of are these; some arising from the number of poynts in the Die, as *Senio*, *Monas*. More vsually amongst the *Græcians*, q these two were termed Κῶς, and χίος, ὁ μὰ τὰ γὰρ χίος ἐδύνατο ἕν, ὁ δὲ Κῶος ἕξ, *id est*, *Chius* answered our Ace, *Cous* our Sice. And this is confirmed by a proverbe in vse among the *Græcians*, Κῶος πρὸς χῖον, which the learned interpret to bee, a comparison of vnequals: a Pygmie, with a Gyant: others named from the number I reade not of; perhaps they played not with a single Die, but with three as wee vse in Passage, whence their chances might have their name, not from the number of the points in each seuerall Die, but from them all being cast. But that the *Tesseræ* had points in them, appeareth by the testimony of a *Turnebus*: And hence *Numeri*, is sometimes vsed for *Tesseræ*.

q Suidas in voce κῶος.

a Turneb. adu. lib. 5. c. 6.

Seu ludet numerosquè manu iactabit eburnos.

Ouid. 2 de Art. Amand.

That they vſed more *Tali* in their plaies, then they did *Teſſeræ*, [b] *Turnebus* obſerueth from that verſe.

Non ſum talorum numero par teſſera,

Martial. l. 14. epigr. 15.

[c] *Cælius Rhodiginus*, ſpeaketh more diſtinctly, ſaying; that in their play they vſed three *Teſſeræ*, but foure *Tali*. Theſe *Tali*, were ſometimes called *Vulturij*, as appeareth by the ſame [d] *Rhodiginus*, and likewiſe *Reguli*, the reaſon of both is rendred by [e] *Turnebus*, he being of opinion, that theſe *Tali*, had not points in them as the *Teſſeræ*, ſaith *pro numeris effigies animalium habebant, vt Vulturum, aut Regulorum*: that they were termed *Vulturij*, is probable by that of *Plautus*,

Tace parumper, iacit Vulturios quatuor.

Plaut. curcul. Act. 2. ſc. 3.

But that the cocklebones ſhould be called *Reguli*, I ſomewhat doubt, for no queſtion, but *Regulus* and *Baſilicus*, in this place, ſignified one and the ſame thing, the one being the *Latine*, the other the *Greeke* word; now *Baſilicus* as ſhall preſently appeare, ſignified the whole chance. So confuſed are the opinions of Authors herein, that to aſſigne a reaſon for every chances name, or to reduce every chance determinately, either to the *Teſſeræ*, or the *Tali*, I thinke it impoſſible. Onely ſome may be thus reduced, and in generall wee may conceiue probably, which chances were fortunate, which vnfortunate. The vnfortunate chance in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*.

The moſt fortunate chance *Venus*, or *Baſilicus*. [f] *Lipſius* taketh them both for one, and that not without ground, if we compare *Horace*, and *Plautus*; both of them treating of that old cuſtome of throwing theſe Cocklebones at their feaſts, for the choice of their *Modiperator*, or Maſter of the feaſt, which ſhould preſcribe lawes for drinking to the whole company. *Venus arbitrum,*

Dicet bibendi, ſaith *Horace*.

Iacto

b Turn. Adv. l. 6. cap. 10.

c Cœl. Rhod. lib. 20. c. 27.

d Cœl. Rhod. lib. 20. c. 18.

e Turn. adv. lib. 5. c. 6.

f Lipſ. antiq. lect. lib. 3. c. 1.

Iacto Basilicum, propino magnum poclum.

Saith *Plautus*, *curcul* : and why may not this Cast be iustly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the *Grecians*, not onely called συμποσιάρχος, but also βασιλεὺς, This King, Prince, or chiefe Commander at the table. This cast was then thought to be throwen, when all foure cocklebones appeared not one like the other, but all with different faces, g *Venus consurgebat ex talis quatuor iactatis, vbi diuersam omnes ostendissent faciem* : with whom accordeth h *Turnebus. Venus erat, cùm nullus eodem vultu stabat talus.* *Hercules* was also a lucky throw, but whether the same as *Venus*, I have not yet learned.

g Cœl. Rhod. lib. 20. c. 27.

h Turn. adu. lib. 5. cap. 6.

The games with the *Tessera*, I make no question were divers, the ignorance of which, they being long since out of vse, hath caused much obscurity in this matter: one game there may seeme to haue beene in vse, where the iust number of eight seemeth to haue beene the chiefe cast : It was called i *Stesichorius iactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorus* his tombe, erected at great charges for greater magnificence, *Ex octonis constabet omnibus, id est*, consisted of many eights ; to wit, *eight angles*, or corners; *eight columnes*, *eight stepps*, or greeses. In their common game., the most fortunate throw is thought to haue beene three Dices, wee call it in passage, a Royall passe, whence it was commonly called, *Senio*;

i Cœl. Rhod. lib. 20. c. 27.

——*Quid dexter senio ferret*
Scire erat in votis, damnosa canicula quantum
Raderet, angusta collo non fallier orca. Pers. Sat. 3.

Which one place of *Persius*, giveth light to this in three things. First, that the winning cast, was termed *Senio*, and if you make *Basilicus* a terme common both to Dice & Cockle bones, as *Venus* is: wee may fitly render it a Royall passe. Secondly, the loosing cast *Canis*, or *Canicula*, in English a Dogge-chance. Thirdly, the manner of their play, both in their Dice & Cocklebones, was by casting them, not immediatly

diatly out of their hand, but out of a diſh, or narrow mouthed veſſell, that there might be faire play, without ſtriking, or cogging the Die; this veſſell *Perſius* calleth *Orca*, and deſcribeth it to haue a narrow mouth, or ſtreight necke. *Horace* applyeth it vnto the *Tali*, *Satyr.* 7. *l.* 2.

Mitteret in Pyrgum talos———

Calling it *Pyrgus*, vſing the *Greeke* word πύργος a Towre, or Steeple, ſo called from πῦρ fire; becauſe the forme thereof being *acuminata*, reſembleth the riſing of the fire: the word intimateth *Horace* his *Pyrgus*, to haue beene of the like forme, with *Perſius* his *Orca*. But to returne to the game; the chiefe caſt as I ſaid was thought to be when three **Dices** appeared, which opinion is ſtrengthned, by that common proverbe: *Aut tres ſex, aut tres treſſeræ, id eſt*, either three **Dices**, or three **Aces**. And the firſt of theſe being the beſt, the other the worſt chance in the Dice; The proverbe implyeth thus much, I will put all to the hazard, I will winne all, or looſe all. This caſt was alſo called *Mydas*, for as *Rhodiginus* ſpeaketh, *In Teſſerario ludo, Mydas iactus erat fortunatiſſimus*, with whom accordeth [k] *Dempſter*, prouing it out of *Suidas*.

k Dempſt. antiq. Rom. lib. 5. cap. 1.

Μίδας ὁ ἐν κυβείαις εὐβουλότατος.

Mydas in teſſeris conſultor optimus.

This name ſignifying the beſt chance, was not appropriated to the *Teſſeræ*, but ſometimes alſo ſignified the fortunateſt chance of the *Tali*. Likewiſe from that of *Martial. lib.* 13. 1.

Senio nec noſtrum cum cane quaſſat ebur.

[l] Eraſm. adag. Chius ad Coum.

It is noted by [l] *Eraſmus*, that as often as an **Ace** hapned to bee throwne, together with a **Dice**; ſo that *Senio*, and *Canicula*, appeared together at one throw, it was a looſing caſt. [m] *Suetonius* is cleere in the proofe hereof, if for *Aut*, we ſubſtitute *Et*, which vnleſſe we doe, it will be a matter of great difficulty, to make congruity of ſenſe: His words are. *Talis enim iactatis, vt quiſq; Canem aut Senionem miſerat, in ſingulos talos, ſingulos denarios in medium conferebat, quos tollebat vniuerſos, qui Venerem iecerat.* Turne *aut*, into *&*, the ſenſe is obuious.

m Suet. Aug. 71.

Looke

Looke who threw an **Ace** and **Dice** together, for euery Dye he ſtaked and laid to the ſtocke a Denier; which he tooke vp and ſwooped all cleane, whoſe lucke it was to throw *Venus*. *Euripides*, as I take it, was not a chance, but a kind of game, much reſembling that which is in vſe with vs, called **One and thirtie**: The number of that game was **Forty**, and the game called *Euripides*, becauſe *Euripides* was one of the Fortie chiefe Gouernours in *Athens*, when the thirtie Tyrants were depoſed. The reaſon of my coniecture is taken from [n] *Rhodiginus*, whoſe words are theſe: *Euripides numerum continebat quadragenarium, quoniam videtur vnus fuiſſe Euripides præfectorum quadraginta, poſt triginta Tyrannos Athenis exactos.* From all we may note, that the *Iactus pronus*, or *Iactus plenus*, that is the lucky caſt, wee may Engliſh it, **Take all**, was commonly called *Senio*, *Venus*, *Cous*: the *iactus ſupinus*, or *iactus inanis*, was likewiſe commonly knowne by no other name then *Canis*, *Canicula*, or *Chius*, we may Engliſh it **Blanke**.

n Cœl. Rhod. lib. 20. cap. 27

[o] Some haue delivered their mind touching theſe playes thus; that the *Tali*, or Cocklebones had but foure faces or ſides, and therefore yeelded foure chances, and no more; the firſt is called *Canis*, or *Canicula*, anſwering to our **Ace**: and it was the worſt of all: the oppoſite vnto it they terme *Venus*, or *Cous*, and it is accounted the beſt; *Merula* againſt ſenſe vnderſtandeth the number of ſeven by it, it may ſtand for our **Dice**. The third bore the name of *Chius*, proportioned to **Trey** with vs, and the laſt *Senio*, which is as much as **Quatre**. For in theſe *Tali* there is no chance of **Deaur**, or **Cinque**. This opinion at firſt I confeſſe ſeemed plauſible to mee, but how fully it diſcouereth the game, and how agreeable, it is to antiquitie let others iudge. The chances of the Dice, or Cocklebones, as they were termed *Iactus*, & *Miſſus*, **caſtes**: ſo alſo were they called [p] *Manus*, figuratiuely, as euery ſtroke in the fencing ſchoole, was termed *Manus*: The firſt acception of *Manus*, is prooved out of [q] *Suetonius*, where

o Barthol. Merula in Ov. de art. amand. l. 2

p Lipſ. Satur. lib. 2. cap. 20.

q Suet. Aug. 71.

where *Auguſtus Cæſar* ſpeaketh thus: *Si quas manus remiſi cuiq; exegiſſem: aut retinuiſſem quod cuiq; donaui, viciſſem, &c. id eſt*: If I had exacted thoſe chances which I remitted every one, and kept that which I beſtowed, I had gotten, &c. The ſecond acception of *Manus*, is confirmed by [r] *Quintilian*, who calleth the ſecond, third, and fourth ſtrokes in fencing, *Secundas, tertias, & quartas manus*. Our Engliſh phraſe is not much vnlike; He hath had a good or bad, lucky or vnlucky **hand**. Another game there was of like nature played with table-men, the word *Latrunculus* tranſlated a table-man, doth properly ſignifie an hired ſouldier, ſuch a one as ſerved for pay: whence *Latro*, whoſe diminutiue *Latrunculus* is, hath his denomination ἀπὸ τῦ λατρεύειν à *ſerviendo*. In this ſenſe the word is vſed by [f] *Plautus*.

[r] Quint. lib. 5. cap. 14.

[f] Plaut. mil. glor. Act. 1. ſc. 1.

Nam rex Seleucus me opere orauit maximo,
Vt ſibi latrones cogerem, & conſcriberem.

Secondly, becauſe ſouldiers are ſo prone, and apt to commit robberies, hence *Latro*, and *Latrunculus*, hath been vſed alſo to ſignifie a thiefe or robber. And thirdly, in a borrowed ſenſe, theſe words are applied to ſignifie table-men, or cheſſe-men; becauſe this game hath the expreſſe forme and repreſentation of a warre, or battle, fought betweene two armies: Inſomuch that [t] *Pyrrhus* King of Epire, being skilfull in plotting ſtratagems, firſt taught his ſouldiers that Art of proiecting, by playes and repreſentations thereof in the table-men. [u] Some are of opinion, that it was firſt invented in the ſeidge of Troy, by *Palamedes*, who that he might keepe his ſouldiers in better order, allowed them this kind of recreation, whence theſe cheſſe-men are ſometimes called *Palamediaci calculi*, they were made ſometimes of wax, ſometimes of glaſſe, ſometimes of other matter. The game ſeemeth to haue been the very ſame with that which we call **cheſſe**. Other games there were of leſſer note for recreation, of which ſort were principally theſe that follow; *Petaurum, Diſcus, Pila, Trochus, Nuces*, πέταυρον, from whence this latine word

[t] Donat. in Terent. Eun. Act. 4. Sc. 7. ad illud, Idem hoc iam Pyrrhus factitavit.

[u] Suidas in voce πάλα.

Petaurum

Petaurum commeth ſignifieth properly a perch or pole, on which Poultry-rouſt, and hence the rope or ſtaffe on which light perſons were wont to dance, and try maiſteries, was termed *Petaurum*. It ſignified alſo a certaine Hoope, or Wheele, through which actiue perſons would runne ſwiftly, their body ſo warily carried, that in their running, they would not touch the hoope or wheele, to this purpoſe *Alex. Neop.* ſpeaketh. [a] *Fuit quoq; petauri ludus admirationis præcipuæ, cùm per circulos quisquam veloci cursu transvolat, corpore ita librato, vt circulum non offendat.* Such Tumblers as were practized in this kinde of actiuitie, were thence called *Petauriſta*. *Diſcus* was a round ſtone in manner of a bowle, ſometime made of yron, or braſſe, whoſoever could caſt it fardeſt, got the victory: the players thereat were called, Δισκεβόλοι, from δίσκος and βάλλω to dart, or caſt on any thing. *Pila*, it ſignifieth a Ball, and of it their were many ſorts. 1. *Harpaſtum*, which we may Engliſh a Foote-ball: [b] This ball being put downe into the middle, two companies of yong men, ſtroue who ſhould drive it through the others goale. 2ly, *Pila*, which ſignified a diſtinct kinde of ball, ſo called from the haire with which it was ſtuffed. 3ly, *Follis*, a light kinde of ball, ſo called becauſe it was ſtuffed with a bladder: with this, old men, and young children played. 4ly, *Paganica*, this had its name ἀπὸ τῆς πάγης, from villages, and Country Townes where it was chiefe in vſe, it was ſtuffed with feathers: of all theſe *Martial.* 14. 45.

Hæc quæ difficilis turget paganica plumâ,
Folle minùs læva eſt, & minùs arcta pilâ.

Fiftly, *Trigonalis*, and this I thinke both the *Pila*, and the *Follis*, were called in oppoſition to the *Paganica*: the reaſon of the name, is taken from the forme of the Tenis-courts, which becauſe they were threeſquare, in manner of a triangle, hence was the ball with which they played in ſuch Courts, [c] termed *Trigonalis*. The players themſelues, were termed, *Factores*, thoſe that did caſt in the ball into the court, were called ſimply *Datores*; and [d] hence *datatim ludere*, is to play at ball

a Alex. ab Alex. l. 3. c. 21.

b Alex. ab Alex. ibid.

c Cœl. Rhod. lib. 12. c. 18.

d Turneb. adverſ. l. 6. c. 4.

ball, or elſe, we may imagine the reaſon of this phraſe to bee, becauſe ſuch as in their play by negligence did let downe the ball, did *ſuram dare*: hold out their legge, to haue the ball flung at it. *Trochus*, it ſignifieth a top, as it was commonly called *Trochus*, from τρέχω to runne, becauſe of the ſwiftnes thereof: and likewiſe *Turbo* in Latine, for the ſame reaſon: ſo ſometimes it was called *buxum*, from the matter whereof it was made, as,

—Buxum torquere flagello. *Perſ. ſat. 3.*

Nuces, with nuts they had many playes, ſome of which are at this day in vſe. One holding an vncertaine number of nuts in his hand, his fellow that played with him, was to diuine whether the number was **euen or odde**. This *Horace* calleth

Ludere par impar ———

The *Gracians* ζυγὰ ἢ ἄζυγα: of this, *Ouid de nuce.*

Eſt etiam, par ſit numerus qui dicat, an impar:
Vt diuinatas auferat augur opes.

Sometimes they piled their nuttes three beneath, and one on the top, in manner of a Caſtle, of this *Ouid* ſpeaketh likewiſe.

Quatuor in nucibus non amplius alea tota eſt,
Cùm ſibi ſuppoſitis additur vna tribus.

Yea, theſe Nut games were ſo many, and ſo peculiar to children, that ſtriplings growing into mans eſtate, were ſtill reputed children, vntill they forſooke theſe Nut-ſports, whence *nucibus relictis*, ſounds as much, as childiſhneſſe being paſt: and this is thought to be the reaſon, why the [e] Bride-man, as ſoone as he was married, vſed to caſt Nuts among the people: intimating thereby a farewell to ſuch childiſh paſtimes. Many other childiſh games they had, among which, one reſembled our **croſſe and pile**: [f] they termed it, *Capita vel nauim?* Becauſe the coyne which they fillepped or toſſed into the ayre, bore ſtamped on the one ſide, *Ianus* his two faces, on the other ſide a Shippe.

e Roſin. ant. Rom. lib. 5. c. 37.

f Anton. Conſtan. in Ouid. Faſt. lib. 1.

CAP.

Cap. 14.

De mensis & conuiuijs Romanorum.

BEfore wee proceede vnto the deſcription of the *Romane* Tables, we will explaine thoſe five termes, *Ientaculum, Prandium, Merenda, Cœna,* & *Comeſſatio.* Which five words, do ſignifie the five ſeuerall feedings each day, which children, old men, labourers, trauellers, and ſuch like did vſually obſerue; for others of healthier and ſtronger conſtitution, did commonly eate but one meale, at the moſt, but two in the day. *Ientaculum*, ſignifieth their breake-faſt, and it had its name, like as our Engliſh word hath, *à ieiunio*, from faſting: In former times it was called [a] *Silatum*, from *Sile*, the name of a certaine hearbe, with the roote whereof, they were wont to ſeaſon that wine, which they had at break-faſt: For as [b] *Plutarch* ſaith, their breake-faſt was nothing but a ſop dipped in wine. In the ſame place, he likewiſe ſaith, that in old time they had no dinner, but that which wee call *Prandium*, was the ſame with them, as *Ientaculum*, & thus much the *Greek* word ἄριστον, ſignifying a dinner, doth intimate, it being ſo called, *quaſi* ἄυριστον, from ἄυριον, which ſignifieth the morning. The name *Prandium*, which we render a Dinner, was ſo ſaid *quaſi* πρὸ ἑσπέρου ſignifying noone-tide, or mid-day. The third time of taking meate, was called *Merenda*; we may Engliſh it our after-noones beauer: it was called alſo *Antecœnium*, becauſe it was taken a little before ſupper. [c] *Merenda eſt cibus qui declinante die ſumitur, quaſi poſt meridiem edendus, & proximè cœnæ, vnde & Antecœnium à quibuſdam dicitur.* The fourth time, was their ſupper, called *cœna, quaſi* κοινὴ, which ſignified as much as **Common**, [d] *quia antiquitùs ſeorſim ſolebant prandere Romani, cœnare cum amicis.* Their fift and laſt time of feeding, was called in Latine, *Comiſſatio* by ſome, by moſt, *Comeſſatio à comedendo.* [e] *Ioannes Tiſtinus* ſaith, that it is a beauer

a Roſin. antiq. lib. 5. c. 27.

b Plut. in ſymp. lib. 8. q. 6.

c Iuſt. Lipſ. cent. 1. epi. 65.

d Plut. ſymp. lib. 8. q. 6.

e In orat. pro M. Cœlio.

beauer taken after ſupper, or a night drinking. But the chiefe feaſt, whereat they [f] gaue entertainement, being their ſupper, we will conſider theſe three things therein. Firſt, *accumbendi vel diſcumbendi rationem*, that is, the manner of their lying at ſupper (for they did neither ſtand, nor ſit at Table as we do;) ſecondly, the forme and faſhion of their table; and laſtly, the parts of their ſupper. The place where they ſupped was commonly called, *Cœnaculum à cœna*, as our **Dining-chamber** is ſo called from our **Dinner**. It was alſo called *Triclinium*, or *Biclinium*, from κλίνη a bed: for ſometimes there were three beds, ſometimes but two about the table, vpon which the gueſts did ſit, or rather lye along. In this dining Parlour, was placed a table, ſometimes made quite round, and for the common ſort of people, it was made of ordinary wood, ſtanding vpon three feete; but for men of better ranke, it was made of better timber, inlaide ſometimes with wood of diuers colours, ſometimes with ſilver; and it ſtood vpon one whole entire foote, made of Ivory, in the forme of a great Lyon, or Leopard, &c. Vnto the meaner ſort of theſe tables, *Horace* alludeth.

[f] Lazius de repub. Rom. lib. 3. cap. 3.

——— *Modò ſit mihi menſa tripes.* *Hor. Serm.* 13.

Vnto the other, *Iuuenal. Sat.* 11. *verſ.* 122.

——— *putere videntur*
Vnguenta atq; roſæ, latos niſi ſuſtinet orbes
Grande ebur, & magno ſublimis pardus hiatu.

Sometimes this table was made in the forme of an halfe Moone, the one part thereof being cut in with an arch or ſemicircle, and then it was called, *Sigma*, becauſe it did much reſemble the letter *Sigma*, Ϲ which as it appeareth by certaine marble monuments, was in old time made like a *Roman* C. Hence is that of *Martial. lib.* 14. 87.

[g] Roſin. antiq. lib. 3. c. 28.

Accipe lunatâ ſcriptum teſtudine ſigma.

If any man ſhould demaund the reaſon, why they cut their table in that forme, I muſt confeſſe I have not reade any reaſon in any Author bearing ſhew of probability. My conie-

cture

iecture is this. It is agreed vpon by moſt Authors, that in the round tables the one quarter was reſerued voyd from gueſts, that the wayters might have a conuenient roome to attend: thereupon it ſeemeth not improbable vnto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma*, hath bene tranſlated diuerſly by divers writers, as it appeareth by *Lipſius*, in the forequoted place. By ſome it hath beene taken for the parlour, or ſupping chamber: ſo *Lipſius* in his *Antiquities*; by others for the ſupper or feaſt it ſelfe: ſo *Celius*. By *Lipſius*, ſince it hath beene thought a certaine place, erected in manner of a hemicycle, or halfe Moone, againſt which they did place one continued bed, able to take ſix or ſeauen gueſts. But *Brodæus*, and *Ditmarus*, in my opinion, haue more truly taken it for the table it ſelfe. About the table that was perfectly round, were placed three beds, couered with Tapeſtrie, or ſome other kinde of couering, according to the wealth and ability of the perſon, and thus.

——*Strato diſcumbitur oſtro:*

The beds beeing ready furniſhed, the gueſts lay downe in manner as followeth. Each bed contained three perſons, ſometimes foure, ſeldome or neuer more, except at their great and more ſolemne feaſts. If one onely lay vpon the bed, then he reſted the vpper part of his body vpon his left elbow, the lower part lying at length vpon the bed: but if many lay vpon one bed, then the vppermoſt did lye at the beds head, laying his feete behinde the ſecond his back; the ſecond reſted his head in the others boſome, hauing a cuſhion put between, laying his feete behinde the thirds backe; in like manner the third and fourth did lye. The number of the gueſts was not great, ſeldome times exceeding nine: whence *A. Gellius* [h] ſaith, that the number of gueſts ſhould begin with the *Graces*, and end with the *Muſes*, that is, they muſt not be fewer then three, nor more then nine. This alſo hath beene the reaſon of that Adage. [i] *Septem conuiuium, nouem conuitium faciunt.*

[h] A. Gel. noct. Attic. l. 13. c. 11

[i] Alex. Gen. dier. l. 5 c. 21.

Heliogabalus seemeth to haue beene delighted with the number of eight, [k] whence he invited to supper, *octo caluos, octo luscos, octo podagrosos, octo surdos, octo raucos, octo insigniter nigros, octo ensigniter longos, octo præpingues, & octo nasutos, delectatus illo Græco proverbio, ἀπαντοκτὼ.* Those that were not inuited, but came of their owne accord vnto a Feast without bidding, by *Plautus* they are called *Muscæ*, Flyes; by others they are called *Vmbræ*, shadowes. Hence is that of *Horace*,

k Stuckius de conuiv. l. 2. c. 2.

—*Locus est & pluribus vmbris.*

The party which inuited the guests, sometimes expressed his earnestnesse, by pulling and haling one by the cloake: whence *Stuckius* obserueth, that when they would shew how earnestly they were inuited, they would say, *Penulam mihi scidit*; he tore my cloake off my shoulder. Againe on the other side, when they would shew how easily the guest was intreated, they would say, *Illius ego vix tetigi penulam, tamen remansit.* Before the guests sate downe, their shooes were vsually pluckt off, that they might not foule the beds, on which they did lye [l].

l Terent. in Heauton.

Accurrunt serui soleas detrahunt,
Video alios festinare, lectos sternere, cœnam parare.

m Cœl. Rhod. lib. 27. c. 26.

[m] They likewise did girde their heads with fillets and haire-laces, as often as they intended to drinke more then ordinary, thereby to preuent the vapours, which otherwise would annoy the head: for which reason, they did likewise [n] vse Garlands of Ivie, and Mirtle-tree, and Roses; the coolenesse of which comforted the braine. These Garlands were also, *Symbolum plenæ libertatis*, a token of their full libertie. The Caruer in these feasts, was called from his artificiall setting and ordering the dishes vpon the Table, *structor*; & from his artificiall carving and cutting vp of the dishes, *Carptor*. *Trypherus*, as appeareth by *Iuuenall. Satyr.* 11. was famous for his skill in caruing: He did set vp a Schoole, teaching such as came vnto him by rules and precepts; and also shewing them the manner

n Pli. l. 16. c. 1.

manner of carving: which that he might the better do, he furnished a table with seuerall dishes of meat, formed & fashioned in wood, with a dull knife, shewing his schollers after what manner, and with what gesture of their body, they should cut vp this or that dish. This supper, because of the wooden dishes of meat, was called [o] *Cœna vlmea*. They deuided their supper vsually into three parts, which they termed their first, second, & third course. In the first course commonly was serued mulberries, lettices, sausages, and alwaies eggs; as likewise in the last course (whether the second, or third) were serued nuts, figs, grapes, but alwaies apples: [p] whence we say proverbially, *Ab ouo ad mala*, from the beginning of the feast to the end; or simply, from the beginning of any thing to the end thereof. The middle course was the maine supper, and the chiefe dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase, it is called [q] *Fundus & fundamentum cœnæ*. Their first messe they called the *proœmium*; the last the *epilogue*, which because it consisted so much of sweete and delicious meates, hence did they apply that vnto the second course, *αἱ δεύτεραι φροντίδες σοφώτεραι, id est, Secunda cogitationes sunt sapientiores*. If the table were well furnished with plenty and varietie of dishes, it was called *Cœna recta*, or *cœna dubia*: *Recta* in this place signifieth as much as *vera*: thus ὀρθὸς among the *Gracians* sometimes signifieth *verus & sincerus*. The phrase intimateth, that it was a true supper, opposed to that dole of meate distributed by Princes to the people, which frō the panier or basket, in which it was brought, was called *sportula*: sometimes they distributed money insteed of meate; this also was named *sportula*: so that *sportula* denoteth any kind of dole either of meate or money, which as often as it was giuen in liev of a supper, it was opposed to *cœna recta*. Yea, sometimes by *sportula* we may vnderstand a light and short supper.

Promissa est nobis sportula, recta data. *Martial.*

o Stuk. de conv. l. 3. c. 3.

p Panciro. lib. rer deperdit. cap. de cibi capiendi modo.

q Stuk. lib. 3. de conviv.

Tumeb. adv. lib. 5. cap. 10.

The reason why a great Feast should be termed *cœna dubia* is, because in such variety of dishes, the guest is many times doubtfull of which to begin. Contrary to this is *cœna ambulatoria*, a supper where one dish walketh through the table.

LIB.

Lib. 3. *Sect.* 1.

Of the Romane Aſſemblies.

De Comitijs.

HITHER-VNTO we haue inſiſted vpon the deſcription of the moſt remarkeable parts of the *Roman* Citie, together with the ſeuerall diuiſions of the *Roman* people, as alſo the *Romane* religion, where wee haue ſeene the generall diuiſions of their Gods, and their ſacrifices, with their ceremonies therevnto belonging, and likewiſe of the *Romane* Games both greater and leſſe. Now are wee to proceede to that part of gouernement, which is politicall, or ciuill: where wee will firſt ſpeake of their aſſemblies called *Comitia*, then of their ciuill Magiſtrates, afterwards of their puniſhments; and laſtly, of ſo many of their ciuill lawes, as I haue obſerued needefull for the vnderſtanding of *Tully*, and that principally in his Orations. For the more eaſie conceiuing of all which, I haue prefixed one Chapter of the *Romane* yeare, treating there, of the *Calends*, *Ides*, and *Nones*: the knowledge of which is needfull for that which followeth.

CAP.

Cap. 1.

De Anno & partibus eius.

INasmuch as there cannot bee a full knowledge of the *Romane* assemblies, without some generall vnderstanding of the *Romane* yeere, and the generall distinctions of the *Roman* daies, it cannot but be worth our labour in this short Chapter, briefly to consider what may bee spoken therein. This word *Annus*, is so called, *quasi Annulus*, because (as the Greek word Ἐνιαυτὸς signifieth) ἐν ἑαυτῷ εἶναι, *id est, in se convertitur annus*: which was the reason, why the *Ægyptians* in their mysticall Cyphers (called *literæ hieroglyphicæ*) did vse the picture of a Serpent, having his taile in his mouth, to signifie an yeere. The time or space of this yeere hath beene diuers, according to the diuersitie of Nations. [a] Some allowed no more to an yeere, then wee doe to a month, whence that monthly space which the *Latines* called *Mensis*, from [b] μὴν, signifying the Moone, they called *Annum Lunarem*. Some allowed foure months, some six months, some ten. And thus *Romulus* measured his yeere, counting the monthes, either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death; or lastly, from the multiplication of vnities, which in a simple number doth not exceede ten.

[a] Vid. Plin. l. 7. cap. 48.
[b] Paulus Mar. in Ovid. Fast. lib. 1.

Quid satis est vtero matris dum prodeat infans,
Hoc anno statuit temporis esse satis.
Per totidem menses à funere coniugis vxor
Sustinet in viduâ tristia signa domo. *Ovid. Fast. lib.* 1.
Annus erat, decimum cùm Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digiti per quos numerare solemus,
Seu quia bis quino fœmina mense parit.

Seu

Seu quòd ad vſq; decem numero creſcente venimus,
Principium ſpatijs ſumitur inde novis. Ovid. Faſt. lib. 3.

Thus *Romulus* his yeere contained of monthes, ten; of dayes, 304. But after this, *Numa* added two monthes.

At Numa nec Ianum, nec auitas præterit vmbras.
Menſibus antiquis addidit ille duos. Ovid. lib. 1. Faſt.

Numa, [c] or as ſome ſay, *Tarquinius Priſcus* perceiving that the monthes did not alwaies fall out alike every yeere; but ſometimes the ſame month would happen in the ſummer, ſometimes in the winter, thereupon after long ſtudy and many inſtructions from the *Grecians*, finding the reaſon of this confuſednesſe, hee added vnto *Romulus* his yeere fifty dayes, ſo that the whole yeere afterward was divided into twelue monthes; becauſe the Moone had finiſhed her courſe 12. times in that ſpace; beginning their yeere then at Ianuary: becauſe then in his iudgement was the fitteſt time to beginne the yeere, when the Sunne being fartheſt from vs, did begin to turne his courſe, and to come vnto vs againe; which is about Ianuary, the Sunne being about the Tropicke of Capricorne. Afterward vpon a ſuperſtitious conceite of the odde number, *Numa* added one day more vnto *Ianuary*, ſo that whereas at the firſt, *Numa* his yeere did agree with the *Grecian* yeere, both of them containing three hundred fifty foure daies; Now the *Romane* yeere contained three hundred fifty fiue daies, which computation falling out too ſhort for the true yeere by the ſpace of tenne daies, and ſixe houres yeerly, it occaſioned every eighth yeere the interpoſition of 3. whole months, which they called their leape yeere; [d] This confuſednes afterward *Iulius Cæſar* by long ſtudy remedied, adding the odde ten daies vnto *Numa Pompilius* his yeere. And leaſt the odde ſix houres might at laſt breed diſorder in their computation, he appointed that every fourth yeere a whole day ſhould be inſerted, next after the three and twentieth of Februarie; which inſerting they called *Intercalatio* from an old verbe *Intercalo*, and that day they called *Intercalarem*.

[c] Vid. Geor. Merulam in orat. pro Q. Ligario.

[d] G. Merula. in orat. pro Q. Ligario.

Now the day following being the foure and twentieth of Februarie, was alwaies the ſixt of the Kalends of March, [e] and therefore becauſe of the interpoſition of the day, they called the leap-yeere, *Annum biſſextilem*, that is, the yeere wherein there falled out two daies, which they called *Sext. Calend. Martij.* And the day thus interpoſed, was called, *dies biſſextus*. This computation which *Iulius Cæſar* found out, we have embraced, and do at this day follow, calling our yeere *Annum Iulianum*, [f] and *Annum magnum*, hauing relation to the monthly yeere called, *Annum Lunaris*; and ſometimes this great yeere is called, *Annus vertens à vertendo*, becauſe it is alwayes turning, and running on. [h] Moreouer, we muſt remember, that the *Romanes* did begin their yeere at March; whence that month, which ſince hath beene called *Iulius*, in the honour of *Iulius Cæſar*, was by them called *Quintilis*, becauſe it was the 5. month: and that month, which ſince hath beene called *Auguſtus*, in the remembrance of *Auguſtus Cæſar*, was by them called *Sextilis*, becauſe it was their ſixt month. Thus then the great yeere being diuided into twelue months, every month was diuided into three parts, *id eſt*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were ſo proper vnto the *Romans*, that [g] *Auguſtus Cæſar*, when he purpoſed neuer to do what he was requeſted, was wont by way of prouerbe to ſay, that he would do it, *Ad Calendas Græcas*, that is in our Engliſh proverbe, **At latter Lammas, neuer.** For the better vnderſtanding of which, I ſhall inſert three common verſes.

Principium menſis noſtri dixêre Calendas:
Sex Maius Nonas, October, Iulius, & Mars,
Quatuor at reliqui: tenet Idus quilibet octo.

That is, the firſt day of every month is called the Kalends of that month. The 2. 3. 4. 5. 6. and 7. of theſe foure monthes, May, October, July, and March, were called the Nones of that month: but in all the other months the Nones contained but the 2. 3. 4. and 5. day; ſo that the fifth day (for example ſake)

e G. Merula in orat. pro Q. Ligar.

f Roſin. ant. Rom. lib. 4.

h Hubert. l. 3. epiſt. fam. 18.

g Suet. Octau. Aug. c. 87.

ſake) of Ianuarie was called *Nonæ Ianuariæ*, or *Ianuarij*, the fourth *Pridie Nonarum*, or *Nonas Ian.* (For they vſed alwaies to ſay *Pridie Cal. Pridie Nonar.* and *Pridie Iduum*, inſteed of *ſecundo Cal. Non. Id.*) The third day of Ianuarie, they called *tertium Nonarum, vel Nonas Ianuar.* The ſecond day of Ianuarie they called *quartum Nonarum, vel Nonas Ianuar.* After the Nones followed the Ides, which contained eight daies in every month, ſo that the 15. day of the foure aforeſaid monthes, were called *Idus Maij, Idus Octob. Idus Iulij*, & *Idus Martij.* In all the other months, the 13th day was the Ides: as to proceed in Ianuarie, the thirteenth day was called *Idus Ianuar.* the twelfth, *Pridie Iduum, vel Idus Ianuar.* The eleventh *tertio Iduum*, or *Idus Ian.* the tenth *quarto Iduum, vel Idus Ian.* the ninth 5° *Id. Ian.* the eight 6° *Id. Ian.* the ſeventh 7° *Id. Ian.* the ſixt 8° *Id Ian.* After the Ides then followed the Kalends of the next month. As the foureteenth of Ianuarie was *decimo nono Calendarum*, or *Calendas Februar*; the fifteenth *decimo octavo Calend. Feb.* the ſixteenth *decimo ſeptimo, Cal. Feb. &c.* Where we muſt note, that as often as we vſe *Pridie, tertio, quarto*, or any of thoſe numerals with an accuſatiue caſe, as *Pridie Calendas, &c.* the *Grammarians* ſay, that this præpoſition *Ante* is eclipſed. Againe, every month had in its compaſſe three great markets, which becauſe they were obſerued every ninth day, were called *Nundinæ*, and the latter of them being the greateſt, is called by *Athenæus* τρίτη ἐκκλησία, which wee may render, *Trinundinum*, or *Trinum nundinum.* It followeth now that I ſhould treat of the daies, which are the leſſer parts of the yeere: where before we proceed, we will conſider the parts, which the *Romans* divided their day into.

Dies Ciuilis continet

Lucē, cuius partes sunt

- *Diluculum.* The breake of the day.
- *Mane.* The full morning.
- *Ad meridiem.* The fore noone.
- *Meridies, quasi Medidies.* Mid-day, or *quasi Merus dies.* Perfect day, Noone.
- *De meridie.* After-noone.
- *Solis occasus.* Sunne setting.

Noctem, cuius partes sunt

- *Crepusculum.* The duske of the euening.
- *Prima fax.* Candle-tining.
- *Vesper.* The night.
- *Concubium.* Bed time.
- *Nox intempesta.* The first sleepe.
- *Ad mediam noctem.* Towards mid-night.
- *Media nox.* Mid-night.
- *De media nocte.* A little after mid-night.
- *Gallicinium.* Cock-crowing.
- *Conticinium.* All the time from Cock-crowing to the breake of day.

The day and night againe were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch containing three houres. The first of the night began at six of the clocke in the evening, and the fourth ended at six of the clocke in the morning. g These watches were distinguished by seuerall notes and sounds of Cornets, or Trumpets, that by the distinction and diuersitie thereof, it might easily bee knowne what watch was sounded. Moreover, we must vnderstand that the *Romanes*, vpon a superstitious conceite, and obseruation of misfortunes, and evill euents falling out on some daies, and more happie successe vpon others, have called the former sort of dayes *Atros dies*, or *dies postriduanos, & Ægiptiacos: ἀποφράδας Graci numcupant, perinde ac si nefandos dicas.* The reason why they were called *Postriduani* was, because they thought *Dies postridie Calendas, Nonas & Idus, id est*, The next day after the Calends, Nones, and Ides, of every month to be vnfortunate: and the latter sort they called *Albos*

g Aler. Gen. l. 3. c. 12.

Albos dies, [h] borrowing the names from the *Scythians*, who vſed to chalk out the fortunate daies in their Kalenders with white characters, whence *Horace* ſaith,

Creſſa non careat pulchra dies nota.

Other-ſome, as their vnfortunate and vnluckie dayes, were noted with a coale or blacke character, according to that,

Nigro carbone notatus.

Againe, their Kalender diſtinguiſhed ſome dayes for Holy-dayes, which they called *Dies feſtos*. feſtiuall dayes, or *dies Feriatos, & Ferias*, Holy-dayes, [i] becauſe they did vpon ſuch dayes *Ferire victimas, id eſt*, offer vp ſacrifices. Others were diſtinguiſhed for working daies, which they called *Profeſtos, quaſi procul à feſtis*. The third diſtinction was of halfe Holy-dayes, which *ab intercidendo*, they called *Dies interciſos*, as it were dayes cut aſunder: the one part of them being allotted for worldly buſineſſes, the other for holy and religious exerciſes. [k] Theſe *feriæ* were either *priuatæ*, and ſo they belonged ſometime to whole families, as *Familiæ Claudiæ, Æmiliæ, Iuliæ, &c.* ſometimes to priuate perſons, as euery one his birth-day, particular expiations, &c. or elſe they were *Publicæ*, ſuch as the whole Common-wealth did obſerue, and they were of two ſorts; the one called *Anniuerſariæ*, which were alwaies to be kept on a certaine day, [l] and therevpon they were called *feriæ ſtatiuæ*; the other *conceptiuæ*, which were arbitrarie, and ſolemnized vpon ſuch daies as the Magiſtrates and Prieſts thought moſt expedient, whereof the *Latinæ Feriæ* were chiefe; which *Latinæ Feriæ* were kept on Mount *Albane* to *Iupiter Latiar*, for the preſeruation of all the Latine people in league and confederacy with the *Romanes*, and were ſolemnized in memorie of the truce betweene thoſe two Nations. Thoſe *Feriæ* which were called [m] *Imperatiuæ*, and [n] *Indictiuæ*, becauſe the *Conſul, Prætor*, or chiefe Pontifie, according to their pleaſure *imperabant, & indicebant has id eſt*, commanded them, may in my opinion be contained vnder that member of *Feriæ conceptiuæ*, in reſpect

h Vid. Eraſm. Adag. vnione ſignare.

i Aſcenſius in epiſt. 3. illuſt. vir. lib. 2.

k Roſin. ant. lib. 4. c. 3.

l Alex. Gen. dier. lib. 5. c. 7.

m Alex. Gen. dier. lib. 5. c. 7. n Seru. Æneid. lib. 11.

of the vncertainety of them. Another distinction of daies is found in the Roman Kalender, to haue bene in *Fastos*, whole Court or Leet-daies; *Ex parte Fastos*, halfe Court dayes; *Nefastos*, Non-leet daies; though this word *Nefastus* be often expounded vnlucky, as in that of [o] *Horace* touching the tree, *Ille & nefasto te posuit die*, that is, He planted thee in an vnhappy time. These daies were so called *à fando*, from speaking; because vpon those daies which were *Fasti*, the Prætor or L. chiefe Iustice might lawfully keepe Court, and administer iustice, which was not done without the speaking of these three words, *Do*, *Dico*, and *Addico*; [p] *Dabat actionem, dicebat ius, Addicebat tam res, quàm homines*. Where by the way we must note, that somtimes these Court daies were also called *Dies comitiales*, because that [q] vpon euery such day which was noted in the Kalender for a continuall day, if the publique assemblies were not helde, it was lawfull to keepe Court: whence not onely *comitialis dies* doth signifie a Law day, but *comitialis homo* also doth signifie a wrangler in the Law, or a litigious person.

o Carmium lib. 2. Ode 13

p Ioach. Camerar. pro Flacco.

q Berſman. in ſuis annot. in Rom. Calend ad finem Ovi. Fast.

Cap. 2.

De comitijs, idq; Calatis præcipuè, de Rogationibus, & antiquâ ſcribendi ratione.

EVery assembly of all the Romane people beeing called together by a lawfull Magistrate to determine any matter by way of giuing voices, is *à coeundo* tearmed *Comitia* simply, without the adiection of any other word; or *Comitia Calata*, that is, Assemblies called together, from καλέω or the obsolete Latine verbe *calo*, which signifieth to call; though afterward those assemblies onely which were helde eyther for the inauguring of some Pontifie, some *Augure*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wils and testaments, were called *calata comitia*. Whence

Whence the will that was made in these Assemblies was called, *Testamentum calatis comitijs*. This kinde of assembly is sometimes called, *comitia* [a] *pontificia*, and *comitia sacerdotum*, in that sense as others are called *Consularia*, or *Ædilitia comitia*; namely, because the Pontifies in these, as the *Consuls*, and *Ædiles plebis* in the others, were chosen. There followeth three other kinds of Assemblies: for either the people did assemble themselues by Parishes, called *Curia*; or by Hundreths, called *Centuriæ*; or by Wards, called *Tribus*. The first sort of assemblies they called *comita Curiatia*, the second *comitia Centuriata*, the last *comitia Tributa*. [b] Where by the way we must note, that that thing which was determined by the *maior* part in any Parish, Hundreth, or Ward, was said to be determined by that whole Parish, Hundreth, or Ward, and that which was determined by the *maior* part of the Parishes, Hundreths, or Wards, was said to be approved, *comitijs Curiatis, Centuriatis, vel tributis*. Secondly, we must note, that neither children vntill they were seuenteene yeeres old, nor old men after the sixtieth yeere of their age, were allowed to suffrage in these assemblies, whence arose that Adage, *Sexagenarij de ponte deijciendi*: & old men were hence called *Depontani*, for the explication of which see before. Here before wee speake of those three seuerall kinds of assemblies, wee will consider the manner of their proceedings in propounding causes vnto the assemblies. [d] The custome was at first, that the *Romans* should bestow their suffrages, *Viuâ voce*, but afterward that every one might with freer liberty giue his voice, they commanded certaine wodden tables, wherein the names of those that stood for offices were written, to bee carried about, every suffrager receiuing so many tables, as there were suitors: then did the people giue backe that table with whom they would suffrage. But if a law were to be enacted, then every suffrager receiued two tables, in the one of which were written these two great letters V.R. in the other was written a great *Romane* A. Those who delivered these tables vnto the

a Ioan. Tissinus in orat. pro Cælio.

b Sigon de iure. Rom. l. 1. cap. 17.

c *Pars putat vt ferrent inuenes suffragia soli.: Pontibus infirmos præcipitasse senes.* Ovid. Fast.

d Philip. Beroaldus in orat. Phil. 11.

the people, did ſtand at the lower end of thoſe bridges (which were erected vp for the ſuffrages to aſcend vnto the *ovilia*) whence they were called, *à diribendo, id eſt*, from diſtributing *Diributores*. At the other end of the bridges were placed certaine Cheſts or little Coffers, into which the ſuffragers which did approue the law, did caſt in the firſt table; thoſe that diſliked it, did caſt in the ſecond: for by thoſe two letters, V. R. which were written in the firſt, is meant *Vti Rogas*. i. Be it as thou haſt asked, this word *Fiat* being vnderſtood. By A. in the ſecond table was meant *Antiquo id eſt*, I forbid it, the word ſignifying as much as *antiquũ volo*; I like the old law, I loue no innouations. The tables being thus caſt into the Cheſts, certaine men, appointed for that purpoſe in manner of Scrutators (they called them *Cuſtodes*, and ſometimes [e] *Nongenti*) did take the tables out of the Cheſts, and ſo number the voyces, by making ſo many points or prickes in a voide table, as they found tables alike: which kind of accounting occaſioned theſe and the like phraſes; *Suffragiorum paucta non tulit ſeptem*, and *Omne tulit punctum*; where *punctum* is vſed for *ſuffragium*. The voices being thus numbred, it was pronounced by the common Cryer what was decreed. Becauſe the vſe of thoſe tables is now growne quite out of vſe, I ſhall make bold to inſert that, which with much labour I have collected out of ſeuerall Authors touching theſe tables. It is certaine that a long time the vſe of paper was not knowne, whence men were wont to write ſometimes vpon the inward rindes of trees, called in Latine *Libri* (ſo that to this day wee call our bookes *Libri*, becauſe in old time they were made of thoſe rindes of trees) ſometimes they did write in great leaues made of that ruſh *Papyrus*, growing in Ægypt, from which we haue derived our Engliſh word **Paper**, and the Latine word *Papyrus*, now ſignifying our writing paper. Shortly after the invention of this Ægyptian paper, *Ptolomy* the King of Egypt reſtrained the common making thereof, becauſe of the great [a] emulation betweene him and *Eumenes* King of *Pergamus*, concerning

[e] Plin. l. 33. c. 2

[a] Plin. lib. 13. cap. 11.

concerning their Libraries; not long after therefore *Eumenes* hauing found out the making of parchment, hee made vse thereof in writing, and called it from the place, *Pergamena*. At this time did the *Romanes* vse to write in tables of wood, couered with wax, called in Latine *ceratæ tabulæ*. They wrote their wils and testaments in tables, [b] *Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according, or against the Testator his will. Because of the wax wherewith these tables were couered, *cera* is often vsed in the same sense, as *Hæredes primæ ceræ, id est, primæ tabulæ, & in primo gradu instituti*; by which words I thinke are vnderstood such heires as [c] *Alexander* called, *Hæredes ex toto asse*, that is, Heires to the maine inheritance, opposing them to those which did receiue onely legacies whom he calleth there, *Hæredes in imâ cerâ, secundes hæredes, & legatarios*. [d] *Sylvius* not vpon improbable grounds doth thinke, that *Tully* doth vnderstand by *Hæredes secundi*, such heires as were nominated to succeed the chiefe heire or heires if they dyed. They wrote their accounts in tables; hence *tabulæ accepti & expensi*, signifying reckoning bookes. These count-bookes were of [e] two sorts, some monthly without order or method called, *Adversaria. Quòd adversa parte etiam scriptis implerentur.* Others perpetuall, being the transcript of the former, called *Tabulæ accepti & expensi*. They wrote their Statutes also in tables, whence *Tabulæ publicæ*, are Englished statute bookes, or rather bookes of record. Those writings, or instruments which the Senate or Emperour caused to be hanged vp in the market place, to release and discharge any bankrupt from paying his debt, they termed [f] *tabulas nouas*; wee may English them letters of protection. They wrote their inventories of goods set at sale in tables, calling them *tabulas auctionarias*: yea they indited their Epistles and common letters in tables; insomuch that *tabellæ* are expounded missiue letters, and *tabellarius* which properly signifieth a carrier of tables, is now vsed to signifie a letter Carrier, yet they [g] some-

b P. Pellitar. in orat. pro A. Cæcinna.

c Alex. Gen. dier. l. 1. c. 1.

d Fr. Sfluius pro Cluentio.

e Cœl. Rhod. lib. 12. c. 21.

f Fr. Sylv. in orat. Catilin. 2. am.

g Suidas in voce μάγυβ-

 times δος.

times wrought alſo in plates of lead, εἰς ἐλασμὰς μολύβδου γεγράφθαι; And thus we may vnderſtand what [h] *Suetonius* meaneth by *charta plumbea*: concerning all theſe, *Pliny* writeth excellently: [i] Before the vſe and making of paper was inuented, men wrote at firſt in Palme-tree leaues, afterwards in the rindes of certaine trees, afterward publike monuments were recorded in volumes or roles of lead, at laſt private matters on fine linnen or wax. [k] The manner how they ſealed their letters was thus: they did binde another table vnto that wherein the inditement was, with ſome ſtrong thred, ſealing the knot of that thred with wax, whence *Cicero* ſaith *Linum incidimus*, that is, we opened the letters, hence alſo is that of *Plautus*, *Cedo tu ceram ac linum: age, obliga, obſigna citò.* [l] The impreſſion was commonly their owne image, or the image of ſome of their Anceſtors. The matter on which the impreſſion was made, was not alwaies wax, but ſometimes a kinde of tempered chaulke, which occaſioned that phraſe of *Tullyes*, *Signum ille animaduertit in cretula.* [n] Laſtly, they wrote their bookes in tables, whence from them wee doe at this day call our bookes, *codices à candicibus*, *candex* ſignifying properly the trunck or ſtocke of a tree, whereof theſe tables or bookes were made. We muſt note withall, that they wrote not with inck or quill, but with an inſtrument of ſteele, or iron, hauing [o] a ſharpe point at the one end, and being broad, yet keene and well edged at the other; with the ſharpe point they did write what they pleaſed, with the broad end they did ſcrape out what they had written: Whence *Stylum inuertere*, is to ſay, and vnſay a thing, to turne his punch the wrong end downeward, as it were to ſcrape out that which one had formerly written. The *Romans* did afterward vſe inſteed thereof, an inſtrument made of bone, prohibiting the vſe of iron ones, as [p] *Iſidore* note by that law, *Ceram ferro ne cædito.* And as we vſe this word *Manus* to ſignify the writing it ſelfe, according to that of [q] *Tully*, *cognouit manum, & ſignum ſuum*: ſo in the like ſenſe we vſe this word *Stylus*, to ſignifie the peculiar

h Sueton. Nero. 20.

i Plin. lib. 13. cap. 11.

k Fr. Sylu. in orat. Catil. 3.

l Iuſt. Lipſ. epiſtol. inſt. c. 4

m Cic. 4. in Verrem.

n P. Pellitar. in orat. pro A. Cæcinna.

o Vid. Eraſm. Adag.

p Herman. Hugo de prima ſcrib. orig. cap. 9.

q Cic. orat. cont. Catil.

culiar tenure or ſtraine of phraſe, which any man obſerueth in the compoſing of an Oration, Epiſtle, or ſuch like; in which ſenſe *Tully* vſeth it, as the Antitheton to *glandius*, in that ſpeech of his, [r] *Cedat forum caſtris, otium militiæ, ſtylus gladio*, though in another place he vſeth it to ſignifie, if not a ſword, yet a pocket dagger, as *Et ſi meus ille ſtylus fuiſſet*; [s] in which place *Stylus* doth ſignify as much as *pugio*. And here ſeeing we are fallen into the manner and cuſtome of ancient writing, it will not be a miſſe to note that vſually at the end of their bookes they printed a little marke, which they termed *Coronis*. Thoſe that interpret *Ariſtophanes*, deſcribe that marke thus, ſaying that it is [t] *Linea breuis ab inferiore parte flexa*. All agree in this, that it was ſome common and knowne daſh, vſually ſubioyned to the end of bookes: [u] others are of opinion, that the ancient *Romanes* did in like manner adorne the frontiſpice, or beginning of their bookes, with the picture of an halfe Moone, which obſeruation giueth light not onely to that Adage, ἀπὸ τῆς ἀρχῆς μέχρι τῆς κορωνίδος, From the beginning to the end. But alſo that of *Martial. lib.* 10.

Si nimius videor, ſerâq; coronide longus
Eſſe liber, legito panca, libellus ero.

And of *Ovid*;

Candida nec nigra cornua fronte geras.

For in *Turnebus* his iudgement, thoſe halfe Moones prefixed, were called *Cornua*. Howſoeuer this may be true touching the daſh, or character at the end of the booke, and that it was termed *Coronis*: yet I doubt whether any ſuch halfe Moone was vſually preſixed in the beginning of bookes, or whether ſuch an halfe Moone were denoted by the Latine word *Cornu*: more probable is his opinion, [x] who treating of this very matter, ſaith, that in old time a whole booke was written in one continued page, neither did they then cut their books into many leaues, and binde them vp in that manner as we do; but that one entire page in [illegible] alone the whole booke was

r Cic. orat. pro Muren.
s Mic. Texita, in orat. Phil. 2.
t Cœl. Rhod. lib. 15. c. 20.
u Turneb. adver. l. 22. c. 10
x Pier. hierog. lib. 34.

written, was wont to be roled vp vpon a ſtaffe faſtened at the end thereof, in manner as many large Mappes are now adaies with vs. Hence it is *à voluendo*, that we call our bookes, *Volumina*, Volumes: this ſtaffe on which the booke was rolled, was called *Vmbilicus*, the ſame word ſignifieth an Navill, which becauſe it is the middle part, and as it were the centre of a mans body, hence approued Authors vſe the word to ſignifie the middle of any thing; and happely that name was firſt giuen this ſtaffe, becauſe when the booke was rolled vp, this ſtaffe was the middle thereof: howſoeuer becauſe it was faſtened alwaies at the end of the page, hence *Vmbilicus*, eſpecially when it is applyed to a booke, ſignifieth the end thereof: as *Horace*, *Ad vmbilicum ducere*; To bring to an end: the two pummels, or ends of this ſtaffe, which did iut out and appeare on each ſide of the volume, they called *Cornua*; and they were wont to be gilded with ſiluer, or gold, or otherwiſe adorned. The Title which was the beginning of euery booke, was termed *Frons*. This ſeemeth more probable then that of *Turnebus* his, and giueth greater light to that of *Ovid*:

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we have digreſſed, it remaineth that we ſhould declare the manner how they enacted their lawes. All the *Romanes*, though free Citizens had not power and authority of preferring a Law, but only eight of their Magiſtrates, which they called *Magiſtratus maiores*: namely the *Prætor*, the *Conſuls*, the *Dictator*, the *Interrex*, the *Decemviri*, the *Military Tribunes* the *Kings*, and the *Triumviri*: vnto theſe eight was added one of thoſe whō they entitled *Magiſtratus minores*, namely the *Tribunus plebis*. If any of theſe Magiſtrates thought it fit to prefer a Law, then did hee firſt write it downe at home, and conſult with ſome Lawyer, whether or no it might be for the good of the Commonwealth, whether it would not weaken any former Law, or whether it was not formerly included in ſome other Law, &c. Theſe and many o[illegible] cautions were to bee conſidered

dered, before it was preferred, yea ſome would haue the approbation of the whole Senate after the aduice of their lawyer, though diuerſe times that hath bene omitted. And the Lawier alone allowing it, the law was hanged vp publikely in the Market place for the ſpace of three market daies; which kinde of publiſhing the Law, was termed *Legis Promulgatio quaſi provulgatio*, during which time of promulgation, reaſons were alledged *pro & con*, by the Spectators: and all the people had ſo much time to conſult of the conueniency therof, and euery one vpon iuſt reaſon, had free liberty to admoniſh him that preferred the law, either to amend it, or to ſurceaſe the propoſeall. After the third Market day (for vnleſſe it were vpon an extraordinary occaſion, no aſſembly might be called vpon a Market day, becauſe of the country folkes buſineſſes, they alſo hauing freedome of ſuffraging) the Magiſtrate did conuocate the people to that place where the law was to be propoſed: there the Towne-clarke or Notary reading the law, the common Cryer proclaimed it, then did he which promulged it, make an Oration vnto the people, perſwading them that it might paſſe. Sometimes others of his Friends would ſecond him with Orations in his behalfe, as likewiſe others that diſliked it, would by Orations diſſwade the people, ſhewing the inconueniency thereof. After the orations had bene ended, an vrne or pitcher was brought vnto certaine Prieſts there preſent, into which were caſt the names of the Tribes, if the *Comitia* were *Tributa*; or if the centuries, if they were *centuriata*; or of the pariſhes, if *curiata*: then *ſortibus æquatis*, that is, the lots being ſhook together they drew their lots; & that the tribe or century whoſe name was firſt drawne, was called *Tribus, vel Centuria prærogatiua, à prærogando*, becauſe they were firſt asked their voyces. *Turnebus* interpreting that of *Tully, Maiores voluerunt prærogatiuam omen eſſe iuſtorum comitiorum*, interprets it; That the Romans did ſo depend vpon the prerogatiue Centurie, that they would alwaies declare him Conſull that was cho-

sen by them. *Turneb. adv. l. 5. c. 23.* That *Curia*, vpon which the first lot fell, was called [q] *Principium*, because that *Curia* did first suffrage. Those Tribes vpon whom the other lots fell; namely, the second, third, fourth, &c. were termed *Tribus Iurevocatæ*. From this distinction it is, that such a man as hath the voyces of the prerogatiue Tribe, or Century, is said to haue [r] *Omen prærogatiuum*: which good fortune whosoeuer could attaine vnto, was in great hope of obtaining the other voices of the *Iurevocatæ*; for they neuer, or very seldome, would swerue from the determination of the prerogatiue Tribe, or Century. Whiles the people were busie in their lottery, in the meane time, if any [s] Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly therupon should bee dismissed: likewise they were dismissed, if either he which first promulged the law did alter his opinion, or if the *Consul* commanded supplications to be offered vp in the behalfe of their Emperour, or any of those holy daies, called *Feriæ Latinæ, vel Imperatiuæ*, to bee obserued vpon that day; or if any of the people assembled were taken with the falling sicknesse (by reason whereof that disease is called by the [t] Physitians at this day, *Morbus comitialis*.) Lastly, the assemblies were dissolued, by reason of the soothsayings, which kind of dissolution was caused either by the ciuill Magistrate his obseruing of signes and tokens in the heauen, and that was called *Spectio*, and sometimes *de cælo obseruatio*; the very act of this obseruation, though no vnlucky token did appeare, dissolued the assembly: or else it was caused by the *Augures*, and ciuill Magistrate promiscuously, whensoeuer any euill token was seene or heard, either by the Magistrat, or *Augure* (amongst which thunder was alwaies counted the vnluckiest) at which time the assemblies were in like manner to bee dissolued: this manner of dissolution was termed *obnunciatio*, or *Nunciatio*. [u] *Obnunciabat, qui contra auspicia aliquid fieri nunciabat*. Both these kinds are easily to bee collected out

[q] Rosin. ant. lib. 6. c. 7.

[r] Cic. pro Muræn.

[s] Huber. in lib. 1. Cic. ep. fam. 2.

[t] Fuchsii inst. medicin. l. 3. sect. 11

[u] Stadius in Flor. l. 3. c. 7.

of

of that speech in *Tully*, [x] *Nos Augures nunciationem solam habemus, Consules & reliqui magistratus etiam spectionem.* Here we may fitly in was of conclusion vnto this Tract, adde a iust difference to be obserued betweene these phrases, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem*, was to hang vp a Law not yet asked, to the publike view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to vse a certaine Oration vnto the people to perswade the conveniency of the Law, which Oration because it began with this forme of words, *Velitis, iubeatis ne Quirites?* that is, O ye *Romanes*, is it your will and pleasure that this Law shall passe or no? Hence was it termed *legis rogatio. Ferre legem*, was when the law had beene approued of by the people, then to write it downe vpon record, and so to lay it vp into the treasure-house; [y] *Cùm approbata fuisset lex, in æs incidebatur, & in ærario condebatur, & tunc demùm lata dicebatur.* Lastly, *Figere legem*, was to publish the law after it had beene approued and recorded, [z] by hanging it vp in tables of brasse in their market places, or at their church doores: Hence it is that wee vse [a] *Tabulam figere* in the same sense, namely to enact or establish a Law, and *Re figere legem*, to disproue or cancell a Law. [b] And that which was determined *Comitijs curiatis*, was termed *lex curiata*, that which was *Comitijs centuriatis, lex centuriata*, that which was *Comitijs tributis*, was not called a Law, but *Plebiscitum.*

x Cic. orat Philip. 2.

y Fr. Maturantius in Phil. 1.

z Corn. Tacit. annal. l. 11.

a Fr. Matur. in Philip. 12.

b Sig. de Iure, prou. l. 3. c. 1.

Cap. 3.

De Comitijs Curiatis.

Comitia Curiata were those, wherein the *Romane* people beeing divided into thirty Parishes, did giue their suffrages: They were so called from *Curia*, signifying a Parish. And vntill *Seruius Hostilius* his time, who did first institute the *comitia centuriata*, all things which were determined

mined by the ſuffrages of the people, were determined by theſe *curiata comitia*: But after the other two ſorts of aſſemblies had beene eſtabliſhed, theſe *curiata* were vſed onely either for the enacting of ſome particular Lawes, or for the creating of ſome certaine Prieſts, called *Flamines*. For the better vnderſtanding hereof, we muſt remember, that though at firſt theſe thirty Pariſhes were parts of the three Tribes (each Tribe being divided into ten Pariſhes,) yet in proceſſe of time the encreaſe of the *Romane* people was ſuch, that a great part of the *Romane* fields were filled with buildings and places of habitation, in ſomuch, that the Tribes of the *Romanes* were encreaſed to thirty fiue: but the Pariſhes (becauſe none that dwelt out of the Citie were tied in the rites and ceremonies of the *Romane* religion) did not encreaſe, ſo that the Pariſhes did not alwaies remaine parts of the Tribes. Hence it followeth, that all the *Romans* had not power to ſuffrage in theſe aſſemblies, but thoſe alone, who dwelt within the City: for no other could be of any Pariſh. The place where theſe aſſemblies were held, was the great Hall of Iuſtice, called from theſe aſſemblies, *Comitium*. Before theſe aſſemblies were held it was required that ſome lawfull Magiſtrate for ſome competent time before hand, ſhould ſolemnely proclaime them, and the thirty Serjants (each Pariſh hauing for that purpoſe his Serjant) ſhould call the people together; as likewiſe three *Augures*, or at leaſt one ſhould be preſent, to aſſure them by their obſeruations, either of the fauour, or diſpleaſure of the Gods. Vpon theſe premiſes, the matter was propoſed vnto the people, who if they liked it, then they proceeded vnto their election; if otherwiſe they diſliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their aſſemblies were preſently diſſolued.

CAP.

Cap. 4.

De Comitijs Centuriatis.

As thoſe former Aſſemblies were called *Curiata à curijs*, ſo were theſe called *Centuriata à Centurijs*. *Seruius Tullius* cauſed a generall valuation of euery Citizens eſtate throughout *Rome*, to be taken vpon record, together with their age: and according to their eſtates and age, he divided the *Romanes* into ſix Armies, or Bands, which he called *Claſſes*; though in truth there were but fiue of ſpeciall note: the ſixt contained none but the poorer ſort, and thoſe of no worth or eſteeme. The valuation of thoſe in the firſt *Claſſis*, was not vnder two hundred pounds, and they alone by way of excellency were termed *Claſſici*: and hence figuratiuely are our beſt and worthieſt Authors, called *Claſſici ſcriptores*, Claſſicall Authors. [d] All the others, though they were enrolled in the ſecond, third, or any other *Claſſis*, yet were they ſaid to be *Infra claſſem*. The valuation of the ſecond Band, was not vnder ſeuen ſcore pounds. The valuation of the third, was not ſo little as an hundred pounds: of the fourth, not leſſe then fortie pounds: of the fifth, not leſſe then twenty fiue pounds. The ſixt contained the poorer ſort, whom *Horace* calleth, *Tenuis cenſus homines*, men of ſmall ſubſtance; and alſo they were called, *Proletarij, à munere officioq́, prolis edendæ*, as if the only good that they did to the Common-weale, were in begetting of children: and ſometimes they were called *Capite-cenſi*, that is, ſuch as paid very little or nothing at all towards ſubſidies, but only they were regiſtred among the Citizens, as it appeareth by [e] *Sigonius*. Theſe ſix great Bands or Armies, were ſubdiuided into hundreds, called in Latine *Centuriæ*. The firſt *Claſſis* contained foureſcore centuries of footmen, and eighteene of horſemen: the ſecond contained twentie centuries of footmen, and two of workemen, which followe

d A. Gel. lib. 7. cap. 13.

e Sigon. de iure. Rom. l. 1. cap. 4.

lowed after to make military engins and weapons: the third alſo, as likewiſe the fourth contained twenty Centuries of footmen, but to the fourth were added two other Centuries of Trumpeters, Drummers, and ſuch like, who vpon iuſt occaſion did *Claſſicum canere*, ſound the Alarme, and vpon iuſt occaſion did againe *receptui canere*, ſound the retrait: the fifth *Claſſis* contained thirtie Centuries of footmen: the ſixt or laſt *Claſſis* contained one Century: ſo that in all the ſixe *Claſſis* were contained one hundred foureſcore and thirteene Centuries. Where we muſt note that all the Centuries of footmen did conſiſt the one halfe in euery *Claſſis* of the younger ſort, who were to make warre abroad vpon the enemies; the other halfe of old men, who remained at home for the ſafety of the City. All that hath beene hitherto ſpoken of theſe *Centuriata comitia*, may be collected out of *Sigonius* in the place aboue quoted. The chiefe Commander of euery Centurie was called *Centurio*; the rod, or tip-ſtaffe, wherewith he did ſtrike his ſouldiers to keepe them in aray, was called by *Pliny*, *Centurionum vitis*. So then we may perceiue, that thoſe *Centuriata comitia* were thoſe, wherein the people did giue their voices by Centuries, or Hundreds. Now the Centuries did not conſiſt of thoſe alone which had their places of habitation at *Rome*, but of certaine *Municipall* States alſo, and ſuch Colonies or other States, that could [d] *Plenum ciuitatis ius cum iure ſuffragij adipiſci*. [e] Now the cuſtome in old time was, that all theſe Centuries ſhould march in their armour after the Magiſtrate which aſſembled them, into the *Campus Martius*, there to giue their voices. But this cuſtome continued not long, for thereby they did diſarme the City, and giue their enemies (if any ſhould aſſaile them in time of their aſſemblies) the greater aduantage: for their greater ſecurity therefore, they appointed a flagge to bee hanged out vpon the Mount *Ianiculus*, ſome few armed men ſtanding there in watch and ward for the ſafeguard of the Citie: and when the aſſembly was to be diſſolued, then did the watch depart, and the flagge was taken

d Roſin. ant. l. 6. c. 40.
e Roſin. ant. Rom. l. 6. c. 16

ken downe: neither could any thing after that be determined; but if they continued their aſſemblies, then did they proceed to the giuing af their voyces, in old time thus. Thoſe Centuries of the firſt *Claſſis* being the wealthier, had the prerogatiue of ſuffraging firſt, and becauſe this firſt *Claſſis* contained more Centuries then all the reſt, therefore, if they could agree among themſelues, the other Centuries were neuer asked their voices. This kinde of ſuffraging being ſomewhat partiall, in as much as the richer and wealthier beeing placed in the firſt *Claſſis*, did ouerſway the elections againſt the poorer ſort of people; thence did the after ages appoint, that that Century ſhould haue the prerogatiue of ſuffraging firſt, vpon whom the lot fell. The other Centuries were all called f *Centuriæ Inrevocatæ*, and did giue their voices not by lots (as the *Tribus Iurevocatæ* did) but the elder and wealthier Centuries did ſuffrage next after the prerogatiue Centurie, accordingly as their place required.

f Roſin. antiq. Rom. lib. 6. cap. 20.

Cap. 5.

De Comitijs Tributis.

FOR the better vnderſtanding of theſe Aſſemblies by Tribes, or Wardes, it will be needfull firſt to learne, that this word *Tribus* in this place doth ſignifie a certaine Region, Ward, or locall place of the City, or the fields belonging thereunto according to that, g *Tributa comitia erant cùm ex regionibus & locis ſuffragabantur.* It was ſo called either *a tributo dando*, euery ſeuerall Region or quarter paying ſuch a tribute; or *quia primò tres tantùm fuerunt*, the whole Citie being at firſt diuided only into three Regions, or Wards, each Nationall Tribe hauing his ſeuerall Region or locall Tribe to dwell in. The firſt Nationall Tribe called *Ramnenſes*, did inhabit the Mount *Palatine*, and the Mount *Celius*, and thoſe two hils made the firſt locall Tribe. The ſecond Nationall

g A. Gel. lib. 15. c. 27.

Tribe called *Tatienſes*, did inhabit the *Capitoll*, and the *Quirinall* mountaine, which two mountaines made the ſecond locall Tribe. The third Nationall Tribe, did inhabite the plaine betweene the *Capitoll* and the *Palatine* hill, and that plaine was called the third locall Tribe. Of theſe Tribes more is ſpoken in the firſt diviſion of the Romane people. Only here we muſt note thus much, that in proceſſe of time after the Citie was enlarged, and the number of *Roman* Citizens encreaſed, theſe locall Tribes were alſo augmented, ſo that they amounted at the laſt to the number of 35. ſome of them being called *Vrbanæ*, others *Ruſticæ*; [h] *Vrbanæ ab vrbis regionibus, Ruſticæ ab agri partibus erant nuncupatæ.* And of theſe two ſorts the *Tribus ruſtica*, were accounted the more honorable. Moreouer we muſt remember, that a man might bee reputed of this or that Tribe, although he had no place or habitation therein. Concerning the place where theſe *Tributa comitia* were had, ſometime they fell out to be in the *Campus Martius*; ſometimes in their great Hall of Iuſtice, called *Comitium*; ſometimes in the *Capitoll*; many times in other places, according to the diſcretion of the Magiſtrate which cauſed theſe aſſemblies.

h Sig. de iure, Rom. l. 1. c. 3.

Cap. 6.

De Candidatis.

IT ſhall not be impertinent to annexe ſome neceſſary obſeruations touching the *Romane* petitors or ſuiters for bearing Office: where we will obſerue theſe three phraſes, *ambire magiſtratum*, *inire magiſtratum*, and *abire magiſtratu*. The firſt ſignifieth, to ſue for an Office; the ſecond, to enter into the Office; the third to depart out of the Office. Againe, the difference of theſe phraſes, *Conficere legitima ſuffragia*, *& Explere ſuffragia*. [i] The firſt ſignifieth to haue ſo many voyces as the law doth require. The ſecond ſignifieth to haue more

i Roſin. ant. Rom. l. 2. c. 6

voyces

voices then any other competitor, but not ſo many as the law requireth.

Theſe perſons were termed *Candidati, à togâ candidâ*, from the white gowne which they did weare, as appeareth more at large, where we haue ſpoken *De Romanâ togâ*. That they might the eaſier procure the good will of the people, [k] theſe foure things were expected from them. Firſt, *Nomenclatio*, the ſaluting of euery Citizen by his name; for the better diſcharge of which, they had a certaine follower, which ſhould, by way of prompting, tell euery Citizens name as he paſſed by, and hence this prompter was ſometimes called [a] *Nomenclator*, which word doth properly ſignifie a common Crier in a Court of Iuſtice, ſuch as call men to their appearance, whence they had their name from *Nomen & calo*, an old Latin word, to call; ſometimes [b] *Monitor*; ſometimes *Fartor, ab infarciendo in aures*. Secondly, *Blanditia*, that is, a friendly compellation by the addition of ſome complemental name, as, Well met friend, brother, father, &c. Thirdly, *Aſſiduitas*, that is, an hot canuaſing, or ſoliciting men without intermiſſion. Laſtly, *Benignitas*, a bountifull or liberall largeſſe, or dole of money, called, *Congiarium*, from the meaſure *Congius*, containing a gallon, becauſe their [c] dole was firſt made of oyle or wine diſtributed in thoſe meaſures. Howbeit κατα χρησικὸς, any dole, gift, or largeſſe in money, or otherwiſe, is called *congiarium*. The diſtributors of this dole were called [d] *diuiſores &* [e] *ſequeſtres*, although ſometimes *ſequeſter* ſignified a briber, or corrupter of a Iudge. Likewiſe their bounty or liberality conſiſted in providing great dinners, and exhibiting magnificent ſhewes vnto the people, &c. Where we muſt obſerue, that as often as this largeſſe is called *Largitio*, it is taken in the worſt ſenſe, namely, for an vnlawfull bribing of the ſuffragers, vnder a pretended largeſſe. [f] *Benignitas liberalitatem magis ſignificat quàm largitionem.*

k Roſin. ant. Rom. l. 7. c. 8.

a Cic. orat. pro L. Mur. *Mercemur ſervum qui dicat nomina, &c.* Horat. lib. 1. epiſt. 6.

b Cic. loco ſupra citato.

c G. Trapea. in Phil. 2.

d Sig. de iud. lib. 2. c. 29.

e Barth. Labomus in orat. pro M. Cœlio.

f Cic. orat. pro L. Muræn.

Cap. 7.

De Romanis veſtibus.

WE may obſerue in reading old Authors, that as well the *Romans*, as the *Grecians*, had diuers diſtinct habits, or outward veſtiments. The *Grecians* had their Mantle, called *Pallium*; the *Romanes* their Gowne, called *Toga*: and by this different kind of garment, the one was ſo certainely diſtinguiſhed from the other, that this word *Togatus* was often vſed to ſignifie a *Roman*, and *Palliatus* a *Grecian*.[f] *Togati pro Romanis dicti, vt Palliati pro Græcis.* Before we proceed, we will firſt obſerue what this *Toga* was, and then how many ſorts there were. [g] *Toga à tegendo dicta eſt.* It was made commonly of Wooll, but according to the worth and dignitie of the perſon, ſometimes of courſer, ſometimes of finer Wooll: as we may collect by that out of *Horace*:

——— *Mihi ſit toga, quæ defendere frigus*
Quamvis craſſa queat ———

[h] We muſt note with *Toxita*, that no woman of any credit did weare the *Romane* Gowne, but inſteed thereof, did vſe a garment, called *ſtola* from στέλλω, ſignifying *demitto, quòd vſq; ad talos demitteretur*: whence old Poets, when they would point out vnto vs an infamous or lewde ſtrumpet, they would terme her [i] *Mulierem togatam*: [k] This *Toga* ſometimes was worne open and vntuckt; then was it called *Toga aperta*: other times it was tuckt vp and then it was called *toga præcincta*. This cincture or girding vp of the gowne was according to [l] *Sigonius* threefold; *Cinctura laxior*, *Aſtrictior*, and *Cinctus Gabinus*. *Cinctura laxior*, or the looſe kind of girding was ſuch, that notwithſtanding the tucke, yet the taile trailed on the ground. *Cinctura aſtrictior*, the cloſe kind of girding was ſuch, that after the Gowne had been lapped

or

f Sigon. de iudic. l. 3. c. 19.

g Mic. Toxita in orat. Philippic. 2.

h Mic. Toxita ibid.

i Roſin. ant. Rom.

k Sig. de iud. lib. 3. cap. 19.

l Sig. ibid.

or tucked vp, it ſhould not reach ſo farre as the feete. The firſt kinde of theſe cinctures did argue a remiſſe, ſoft, and effeminate minde; the latter did ſignifie the promptneſſe or readineſſe of the perſon; [m] *Vnde, Alitè præcincti pro expeditis dicti ſunt.* Thirdly, *Cinctus Gabinus* was a warlike kinde of girding, not ſo that the whole gowne ſhould be tucked vp about the middle, but that it beeing caſt quite backward, the party ſhould gird himſelfe with one skirt thereof. [n] This kinde of girding was ſo called ſi oma certaine City of *Campania* called *Gabij*, becauſe vpon a time the inhabitants of this Citie being at ſacrifice, were ſet vpon by their enemies; at which time they caſting their gownes behinde them, and girding one lappet or skirt about them, went immediately to warre, euen from the Altars, and got the conqueſt. [o] In memory of which euer after, the *Conſul* when hee would proclaime warre, girded himſelfe in like manner. Neither had the *Conſul* alone a peculiar garment when he proclaimed warre, but every ſouldier in time of warre, did weare a different kinde of garment from the gowne, which they called *Sagum*: we may Engliſh it a Souldiers Coate. Whence *Tully* vſeth this phraſe, *ad ſaga ire*; which *Eraſmus* hath paralleld with this, *Ad certamen ſe accingere*, to buckle for warre. Inſomuch, that *Cedant ſaga togæ*, is *æquiualent* to that of the Orators, *Cedant arma toſtæ*. Touching the difference of the *Romane* gownes, I finde them diſtinguiſhed by [p] *Sigonius* according as followeth; in *Togam Puram, Candidam, Pullam, Prætextam, Paladamentum, Pictam, Trabeam*. *Toga pura* was the common ordinary gowne worne by new married women, and, *Tanaquil prima texuit rectam tunicam, qua ſimul cum toga pura tyrones induuntur nouæ nuptæ*. *Plin. lib.* 8 *cap.* 48. and by priuate men at mans eſtate, about the ſixteenth yeere of their age, at which time they were ſaide, *Excedere ex ephebis*, that is, to be paſt ſtriplings. Notwithſtanding the ſixteenth yeere was not alwaies ſtrictly without exception obſerued; [q] for *M. Aurelius* was permitted to weare this gowne beeing but fifteene yeeres old;

m Sigon. lib.

n Serv. Æneï. lib. 7.

o Alex. Gen. dier. l. 1. c. 14.

p Sig. de iud. lib. 3. c. 19.

q Roſin. ant. lib. 5. c. 32.

old; and *Caligula* did not weare it till the nineteenth yeare of his age. This kinde of gowne beſides that it was called *Pura*, it was alſo ſometimes called *virilis*, ſometimes *libera*. It was called *pura*, in reſpect of its pure white colour, being free from all admixtures of purple, or any other colour, and therefore ſome haue termed it ὁλολεύκον, all white, others ἀπόφυρον, voyde of purple. It was called *virilis*, becauſe it was giuen to ſtriplings now growing to mans eſtate. Whence we vſe to ſay to a ſtripling paſt 16. yeeres of his age, *virilem togam ſumpſit*, he is now become a man. Laſtly, it was called *libera*, becauſe then they did receiue ſome beginning of freedome, as being about that time freed from their Shool-maſters, and overſeers. This kinde of gowne was not made open but ſowed downe to the bottome, and alſo it was made without ſleeues, ſo that if at any time they had occaſion to vſe their armes, they would take vp their gowne and caſt it quite behind them, or vpon their ſhoulders. But theſe ſtriplings could not for one whole yeeres ſpace, caſt backe their gownes in that manner for the liberty of their armes, without the imputation of immodeſty, as it appeareth by *Cicero*, *Nobis annus erat vnus adcohibendum brachium togâ conſtitutus*. The like liberty it ſeemeth was denied thoſe that ſtood for places of office; and thence is it, that *Horace* wiſheth ſuch to hire them a ſeruant

Et toga non tactas vincere iuſſa niues. Martial.

r Roſin. antiq. Rom. lib. 5. c. 32.

(Aldus Manutius. vid. Roſin. Ib.

t Cic. in orat. pro Cælio.

u Sig. de iud. lib. 3. c. 19.

—*Lanum*
Qui fodiat latus, & cogat tranſpondera dextram
Porrigere——

In which place by *pondera* is vnderſtood the Roman gowne, as *Sigonius* hath expounded that place. Now for the vnderſtanding of *Toga candida*, wee are to learne a difference betweene this *candida toga*, and the *toga pura* aboue ſpoken of, which is oftentimes called *toga alba*, both of which were white, but differed in the degree of whiteneſſe. The *toga alba* had onely the naturall whiteneſſe of the wooll; the *toga candida* had an artificiall white die: whereby the glaſſe of the white was made more orient and intenſiue. Or elſe as *Sigonius*

x Sigon. Ib.

y Sigon. Ib.

nius hath obſerued out of *Iſidorus*, *Intendendæ albedinis cauſa cretam addiderant*, that is, they chalked it to encreaſe the whiteneſſe thereof. And hereunto *Perſius* alludeth.

—*Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam* λαμπρὰν, that is, ſhining or ſplendent. Moreouer whereas the *alba toga* was the ordinary *Romane* gowne which commonly the *Romane* Citizens did weare; this *candida toga* was only worne by thoſe which did *ambire magiſtratum*, ſue for a Magiſtracy, or place of Office, who during the time of their ſute were called from their gowne *candidati*: and *Quintilian* borrowing his metaphor from them, hath called an young Student, *eloquentiæ candidatum*. The third ſort of gowne which I termed *togam pullam*, was a black gowne, and thereof was two ſeuerall kindes; the one cole-black, which was worne *luctus cauſa*, in token of mourning, and the mourners were thence called *Atrati*, and as often as they did weare this gown, they were ſaid *Mutare veſtem*, [z] which phraſe in old Authors doth ſignifie nothing elſe, but to goe in mourning apparrell: The other not cole-black, but only fouled or ſtained, and that was worne *reatus cauſa*, in times of arraignement, and thoſe that wrote it were called *ſordidati*, *à ſordibus in veſte*, from the ſpots or ſtaines in the gowne. Where we muſt note, that in proceſſe of time *Toga pulla* became the ordinarie gowne which the common people did weare; at which time the ordinarie gowne, which the Citizens of better place and eſteeme did weare, was the *toga candida*: whereupon there did then grow a diſtinction of the Citizens vnknowne to the former age, ſaith *Roſinus*, namely that ſome were termed *candidati*, others *pullati*. *Candidati* were thoſe, not which became ſuiters for places of Office (as in old time it ſignified) but thoſe which did liue in better repute then others: from whence it is, that [a] he whoſe Office was to reade the Emperours letters in the Senate, was called *Candidatus principis*, or *Quæſtor candidatus*. It did ſomewhat reſemble the Office of the King his Maieſties chiefe Secretary.

z Sig. de iud. lib. 3. c. 19. Cic. orat. pro P. Sext. *Suum dolorem veſte mutatâ ſignificabant Romani.*

a Feneſtella de mag. Rom. cap. 3.

cretary. *Pullati*, were thoſe of the commonalty or inferiour ſort. The fourth ſort of gowne was the *toga prætexta*, ſo called, *quia ei purpura prætexta erat*, becauſe it was garded about with purple ſilke. This kinde of gowne at the firſt was vſed only by the Romane Prieſts, and chiefe Magiſtrates: Neither was it lawfull for ſuch as did weare that gowne to be arraigned, or ſentence to be giuen on them vntill that gowne was put off. In continuance of time, this *toga prætexta*, was permitted firſt to Noble-mens children; afterward to all Romane children in generall: whereupon, [b] *Togatus à prætextato differt, vt priuatus à magiſtratu & vir à puero*, and *ætas prætextata*, is taken for childhood; and *prætextati* ſometimes for Magiſtrates, but commonly for young children. The fifth ſort of gowne was called, *Paludamentum*; It was a military garment, which [c] none but the L. Generall, or the chiefe Captaines did vſe to weare. [d] *Iſidorus* ſaid it was not only guarded with purple, but with skarlet, and gold lace, whence it was ſometimes called, [e] *toga purpurea*, ſometimes *coccinea*. It was much like the habit which the *Græcian* Emperour was wont to weare, called *Chlamys*; yea now it is [f] called *Chlamys*; we may Engliſh it, an *Heralds* Coate of Armes. The fixt ſort of gowne was called *toga picta*, [g] becauſe in it were imbroidered goodly pictures with needle worke: it was alſo called *Purpuria*, not becauſe of any purple guard (in which reſpect the *prætexta*, and the *paludamentum* were called *purpureæ*) but becauſe it was all over with a purple Die. It was by ſome termed, *toga palmata*, becauſe in it many Palme branches being the reward and token of victory were wrought; whence by others it was called, *toga triumphalis*, becauſe Emperours in their triumphs did weare ſuch gownes. The laſt ſort of gowne was *Trabea*, whereof there were [h] three ſeuerall kinds; the one woven all of purple, which was conſecrated vnto the Gods: the ſecond was purple woven vpon white, and this only Kings and *Conſuls* might weare: the third was skarlet woven vpon purple, and this the *Augures* onely did weare. [i] This laſt ſort was thero-

b P. Pellitarius, in orat. pro A. Cæcin.

c Alex. Gen. dier. l. 5. c. 18.

d Sig. de iud. lib. 3. c. 19.

e Sigon. lib.

f Roſin. ant. lib. 5. c. 31.

g Sig. de iud. lib. 3. c. 19.

h Seru. Æneid. lib. 7.

i Alex. Gen. dier. l. 5. c. 18.

therefore called *trabea anguralis*, the ſecond *trabea regia*, the firſt *trabea conſecrata*.

CAP. 8.

De Tunica.

THoſe Coates which were worne vnder the gowne were called *Tunicæ*; and that they were worne vnder the gowne it appeareth by that Adage, *Tunica pallio proprior eſt*, that is, euery one for himſelfe firſt; or according to our Engliſh proverbe, Cloſe ſitteth my ſhirt, but cloſer ſitteth my skinne. [k] This *tunica* was both narrower and ſhorter then the gowne: at firſt it was made without ſleeues, and by it, as well as by the gowne, were the Citizens diſtinguiſhed. The firſt ſort of coates was made of white cloath commonly, [l] but purfled ouer and embroidred with ſtuds of purple in manner of broad nayle heads; whence it was called *Latiſculauia*, or *Latus clauus*; and the perſons wearing this Coate were Senators, called thence, *Latiſclavij*. The ſecond ſort belonged vnto the *Romane* Knights, and it differed in making from the firſt, onely that the purple ſtuds or embroidred workes of this, were not ſo broad as the former; whence the Coate was called *Anguſticlavia*, or *Anguſtus clavus*, and the perſons wearing it were called *Anguſticlavij*. The third ſort belonged vnto the populacy and poorer ſort of *Romanes*, it was made without any purfled workes, beeing called *Tunica recta*. This Coate was giuen together with the *Virile* gowne to ſtriplings paſt ſixteene yeeres old, and to new married women. And as the *recta tunica* was giuen with the *virile* gowne; ſo was the *tunica clauata* giuen together with the *toga prætexta*; and the *Latiſclavia* otherwiſe called *tunica palmata*, giuen with the *toga picta*. The fourth and laſt ſort belonged vnto women, beeing a long Coate reaching downe vnto the heeles; they called it *ſtolam*. Vpon it they did weare an outward garment [m] called *palla*.

k Sig. de Iure. l. 3. c. 20.

l Salmuth in Pancirol. lib. rerum deperdit. cap. de fibula. Vid. Turneb. adver. l. 13. c. 2.

m Roſin. ant. lib. 5. c. 35.

um, and sometimes *palla*, *quia palàm gestabatur*. [n] *Sigonius* saith, that this *palla* was a certaine gowne vsed by stage-plaiers: howsoeuer certaine it is, that not onely women, but men also, and children did weare this kinde of garment. Besides the *Roman* gowne & coate, there remaine other parts of their apparell to be spoken of: such are these which follow, *Lacerna*, which some do English a cloake, but [o] *Festus* would haue it to be a little kinde of hood, which men should weare to defend themselues from the raine and weather: It was made that either side might be worne outward; and at first it was worne onely in warre, so that *lacernati* stoode in opposition with *togati*. [p] *Isidorus Togatos pro vrbanis, lacernatos pro militibus vsurpatos scribit*. Afterward as we may coniect, it was made longer in manner of a cloake, for it was diuers times worne vpon their coats insteed of gownes. Another kinde of garment was the *Penula*, so called *quasi pendula*, wee may translate it a long hanging cloake. A third was called *Mitra*, which sometimes did signifie a certaine attire for womens heads, as a coyfe or such like; though this kinde of attire was more properly called *Calantica*: other times it signified a girdle, which more properly was called *zona*: This *zona* chiefly signified a souldiers belt, or a marriage girdle: The souldiers belt was lined within in the inside, where when they went to warre, they did put their mony: whence *Horace* saith of a man that hath lost his mony, *zonam perdidit*. And ζώσασθαι, to be girt, signifieth Ἐνδῦναι τὰ ὅπλα, *Arma induere*. *Cœl. Rhod. l. 22. c. 19.* happely because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to euery mans particular *Genius*, the armes to *Iuno*, the breast to *Neptune*, the reines to *Venus*, the feete to *Mercury*, and the fingers to *Minerua*. *Alex ab Alex. l. 2. c. 19.* Young Maides when they were married were wont to haue a marriage girdle tied about their middle, which their husband at the first night of their marriage should vntie: whence *zonam soluere* hath beene translated to deflowre a Virgine: this marriage

n Sig. de iud. lib. 3. cap. 19.

o Sigon. Ib.

p Sigon. Ib.

girdle

girdle in former times was called *Cestus*, from whence commeth the Latine word *incestus*, and the English word Incest: which in truth signifieth all kind of pollution committed by vndoing, or vntying this girdle called *cestus*: but now in a more strict acception, it signifieth onely that kind of naughtinesse, which is committed betweene two of neere kin: and that other folly which is committed with a strangers wife, is now properly called *adulterium*; and that which is committed with a maide or widdow, *stuprum*. The last thing touching their apparell is their shooes. [r] *Calceamentorum genera duo fuerunt, calceus, & solea*: For the soale of the shooe, called in Latine *solea*, sometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottome of the foot with leathorne straps, or buckles, and so worne instead of shooes: the diuers kinds of these shooes did distinguish the *Romane* people also. To omit the difference in colours, wee may reduce the chiefe kinds to fiue heads, *Mullei, Vncinati, Perones, Cothurni, Socci*. All these sorts of shooes were made halfe way vp the legge, as the Turkish shooes are according to *Iosephus Scaliger*: and they were either laced close to the leg, as many of our bootes are now adayes; or clasped with taches or haspes. The first sort called *Mullei*, from the fish *mullus*, being like vnto it in colour, were also called from their claspes *calcei* [t] *lunati*, because the claspes were made in forme of an halfe mone, which halfe mooned clasp resembled a *Romane* C, signifying an hundred; [u] intimating thereby, that the number of the *Senators* (they only being permitted to weare this kind of shooe) were at first a full hundred, and no more. Others are of opinion, that they wore this mooned clasp to put them in mind, that the honour vnto which they had attained was mutable and variable as the Moone. For they think, that these *Lunati calcei* were not receiued as a token of Nobility only at *Rome*: but in other places; to which purpose they interpret that of the Prophet *Esay, cap. 3. In die illo auferet Dominus ornamentum calceorum & lunulas. Cœl. Rhod. lect. Antiq.*

q Cælius in orat. pro. Milone.

r Rosin. antiq. Rom. lib. 5. c. 36.

s Salmuth in Pancirol. lib. rerum deper. dit. cap. de fibula.

t *Appositam nigra lunam subrexit aluta.* Iuvenal.

u Salmuth. in Pancirol. lib. rerum deperdit cap. de fibula.

tiq. l. 20. c. 28 Vincinati calcei, were those, which the souldiers were wont to weare, I take them to bee the same with those which they called *Caligæ*, from which kind of shooes *C. Cæsar Caligula* had his name, because he was borne in the army. *Quia natus in exercitu fuerat, cognomentum calceamenti militaris, id est, Caligulæ sortitus est. Aurel. Vict. Epitom. de vita Imperat. Perones* (as we may coniecture) were laced vp the leg: for *Tertullian* making but two sorts of shooes, saith there were the *Mullei*, called from their claspes, called also *calcei puri, quoniam ex puro corio facti*; and these *perones*, or *puros calceos*, all the other *Romanes* did weare [t] with this note of distinction, that the Magistrates shooes were beset with precious stones, priuate mens were not. Thus much concerning both the kinds and fashion of the shooes, may be collected out of *Rosinus* in the place aboue quoted. The description and vse of the *Cothurnus*, and *Soccus*, may be seene in the tract *de Romanis ludis*.

t Salmuth. in Pancirol. lib. rerum deperdit. c. de fibula.

LIB.

Lib. 3. Sect. 2.

Of the Romane Magistrates.

Cap. 1.

De Magistratibus Romanis.

WE being to treat of the *Romane* Magistrates, will first see what the definition of a Magistrate is. A Magistrate is he [o] who receiueth by publike authority the charge and ouersight of humane affaires belonging to the Common-wealth. These *Romane* Maigistrates were either to be chosen onely out of the better sort of *Romanes*, called the *Patricij*; or else onely out of the Commonalty. [p] The first were thence called *Magistratus patricij*, the second *Magistratus plebeij*. The *Patricij* had power to hinder the assemblies of the people; namely their *Comitia*, by obseruing signes and tokens from the heauens: howbeit some of them had greater power, others lesse; insomuch that some were called, *Maiores magistratus, quoniam habebant maiora auspicia, id est, & magis rata.* Others were called, *minores magistratus, quoniam habebant minora auspicia.* Of these in their order.

o Sig. de iure, Rom. l. 1. c. 20

p Sig. de iure. Prouinc. l. 3. cap. 1.

q Feneſt. de magiſt. Rom. cap. 1.

Cap.

Cap. 2.

De Rege & Tribuno Celerum.

IN the infancy of *Rome*, it was gouerned by a King vntill *Tarquinius Superbus* his time, who by maintaining that ſhamefull act of his ſonne towards *Lucretia*, did ſo inceaſe the people, that they did not onely for the preſent exile him, but decreed that their City ſhould neuer after that be gouerned by a King. This King had abſolute rule and gouernment ouer the City. For the ſafety of his perſon he had three hundred choſen young men alwaies to bee attendant about him, much like vnto our Kings Maieſties Guatd here in *England*, or rather his *Penſioners*. They were called † *Celeres à celeritate*, from their readineſſe in aſſiſtance: ſometimes they were called *Troſſuli*, ‡ becauſe they alone without the helpe of any foot-men did take a certaine Citie in *Etruria*, called *Troſſulum*. Other times they haue beene called *Fleximines*, whereof as yet there hath beene no certaine reaſon rendred. Each hundred of them had their ſeuerall ouerſeer, called *Centurio*: and ouer them all there was one generall ouerſeer, and chiefe Commander, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the King. A ſecond ſort of attendants about the King, were called *Lictores à ligando*, according to that *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which wee may render Virgers from ῥάβδος, a rod; and ἔχω, to haue: though ſometimes ῥαβδοῦχοι doe ſignifie the ſame as ῥαψῳδοί. The rehearſers of *Homers* verſes: or in generall of any other Poets: παρὰ τὸ ῥάπτειν ᾠδάς, from patching together other mens Poems. For the reciters of *Homers* verſes were wont to hold a rodde or wand in their hand during the time of rehearſall. *Cœl. Rhod. l. 7. c. 29.* They did ſomewhat reſemble our Serjants, there being in number twelue of them. Their office was to carry certaine bundles of birchen

† Plutarch. in Romulo.

‡ Plin. l. 33. c. 2

birchen rods with an axe wrapped vp in the midst of them: the rods in Latine were called *Fasces*, the axe *Securis*. † The reason why they carried both axes and rods, was to intimate the different punishment that belonged vnto notorious and petty malefactors. The reason why they were wrapped vp together, was not only that they might be thereby more portable, but that the anger of the Magistrate might bee somewhat allayed, whilst they were vnbinding. Hence because these *Fasces virgarum & securium*, did betoken honour and chiefedome in place and authority, by the figure *Synecdoche*, this word hath beene vsed to signifie honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his Magistracy or dignity. And *Fasces submittere* to giue place, or yeeld vnto. *Valerius Publicola* gaue the occasion of the proverbe. He to insinuate himselfe into the hearts of the people is said, *Submittere fasces populo quoties prodiret in concionem*. Some interpret it, as if he were wont to command the Serjants quite to depart out of the assemblie with their rods, which opinion *Plutarch* in *Publicola* confuteth writing thus: δυτὰς τὸς ῥάβδους τὶς ἐκκλησίαν παριὼν, ὑφῆκε τῷ δήμῳ, ⸗ κατέκλινε. *Fasces ipsos in concionem progressus populo submisit inclinauitq́;*; So that the phrase signifieth properly, the not holding vp of the rods, or rather the laying them downe as it were, at the feete of the people. *Cæl. Rhodig. l.* 12. *c.* 7.

† Ioac. Camerarius in orat. pro Iacco.

Immedicabile vulnus Ense recidendum, &c.

Cap. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarij?

TOuching the election of the *Senators*, the number of them, and the distinction of them into *Senatores maiorum*, and *Senatores minorum gentium*, sufficient hath beene deliuered in the second diuision of the *Romane* people; as likewise in the third diuision hath beene shewne the habit

or gowne, by which the *Senators* were diſtinguiſhed from the *Roman* Gentlemen. Here therefore it ſhall be ſufficient for vs to vnderſtand, that every ſolemne meeting, or conſiſtory of theſe *Senators* was called *Senatus*. The ſort man of them (which could be no other then ſuch, as had beene either *Conſul* or *Cenſor*, was called *Princeps Senatus*, and his opinion was alwaies firſt asked. Now among thoſe that had borne thoſe foreſaide Offices, it was in the *Cenſors* power to make whom he would fore-man. The decree of this conſiſtory was called *Senatus-conſultum*. And many times it is written with theſe two letters onely, S.C. In like manner their preface to theſe decrees was commonly theſe two Capitall letters, B.F. That is *Bonum factum*. *Sueton. Iul. Caſ. cap.* 80 and it had the ſame vſe as, *In nomine Dei* with vs. The place where this conſiſtory was had they called *Senaculum*. None was [u] ordinarily admitted into the place of a *Senator*, before the fiue and twentieth yeere of his age: and of thoſe that were admitted, ſome were allowed to ride vnto the Senate-houſe in a Curule-chaire, namely, when they had borne ſuch Office, which gaue them right vnto that Chaire: others which had not borne ſuch Office, went on foote: [x] whence theſe latter were called *Senatores Pedarij*. They determined their Acts which they called *Senatus conſulta*, ſometimes by departing downe their benches, and diuiding themſelues into ſides; thoſe which did approue that which was purpoſed, ſided with the party who did *Referre ad Senatum*, that is, propoſe the matter vnto the Senate; the others departed vnto the contrary ſide; or if they came not downe at all, but ſate ſtill on the benches, then did they ſignifie by holding vp, or beckning with their hands, what ſide they would take. Now if the *major* part were eaſie to be diſcerned, then they reſted there, terming that Act to bee decreed [y] *per diſceſſionem*: and hence theſe and the like phraſes haue taken their beginning, *In illius ſententiam iturus ſum*, and *Manibus pedibuſq; diſcedere in alicuius ſententiam*, that is, to be fully perſwaded of ones opinion. Now if both companies

[u] Mart. Phileticus, in Cic. l. 1. ep. fam. 1.

[x] Mart. Phileticus. ibid. It. A. Gel. noct Attic. l. 3. c. 18

[y] Hubert, in Cic. lib. 1. ep. fam. 2.

companies were almoſt equall, ſo that the *maior* part could not eaſily be diſcerned: then did they proceed to giue their voices; and that which was thus determined was ſaid to bee decreed, *per ſingulorum ſententias exquiſitas*, that is, by voices. Here may we obſerue, that to thoſe who were fauourably heard in *Senate*, *His Senatus dari dicebatur*; and [z] likewiſe they were ſaid, *Stare in Senatu*: as on the contrary, they were ſaid *Iacere*, whom the *Senate* neglected, or rather condemned. [a] *Cum mihi ſtanti iacens minaretur*, ſaith *Tully*. If any Senator were abſent without a lawfull excuſe, then was hee fined; and for the payment thereof, he did put in a pledge, which if he did not ran'ome, then did the common Treaſurer *Cædere vel concidere pignora*, that is, ſtraine or ſeaze vpon the pledges, making common ſale thereof; in which ſenſe thoſe two phraſes are vſed, namely, *capere pignora*, & *auferre pignora*, that is, to ſtraine or ſeaze vpon a mans goods.

z Aſcenſius in Cic. l. 1. epiſt. fam. 4.

a Cic orat. de aruſp. reſponſ.

b Roſin. ant. l. 7. c. 7.

Cap. 4.

De Conſulibus.

After the expulſion of *Tarquinius Sup.* the laſt *Romane* King, all the Citizens in *Rome* aſſembled, and concluded that the gouernment of their Citie, which before was in the hand of one alone gouernour, called their King, ſhould now bee divided betweene two: [c] whom at firſt (before there was any ſuch ſubordinate Office as a *Prætorſhip*) the *Romanes* called *Prætores*, *quod præirent populo*. Not long after they were called *Iudices*, *à iudicando*. In proceſſe of time they were knowne by no other name then *Conſules à conſulendo populo*. [d] No Citizen was ordinarily created *Conſull* before the forty third yeere of his age. Neither might any bee choſen without ſpeciall diſpenſation, either of their abſence out of *Rome*, [e] or in time of their triumph; which was the reaſon that *Iulius Cæſar* was glad to forgoe his triumph at

r Roſin. antiq. Rom. lib. 7. c. 9.

d Cic. orat. Philip. 5.

e Suet Iul. Cæſ. cap. 18.

that time, when he was Conſul with *Bibulus*. The ſignes or tokens of this *Conſular* dignity, were the twelue *Lictors* caring their bundles of rods and axes, [f] the firſt month before one *Conſul*, and the ſecond before the other, as formerly they had done before their Kings. * Now he that had the rods caried before him in the firſt month, either he had more children then the other (for the *lex Iulia* gaue præcedency to him who had moſt children) or he was elder then the other, or in time of the election he was firſt pronounced before the other, for which reſpects he was called *Conſul maior*, and *Conſul prior*. [g] The reaſon why each *Conſul* had not twelue *Lictors* alwaies, was becauſe the tyranny of the *Conſuls* might then ſeeme to be doubled and to exceed the tyranny of the Kings: another token was a certaine chaire of eſtate called *Sella eburnea*, that is, an Ivory chaire, ſo called from the matter where-of it was made, and [h] becauſe this Chaire was commonly caried about in a certaine Coach or Chariot, wherein the *Conſul* did ride, hence from *Currus* which ſignifieth a Chariot, it is alſo called *Sella curulis*: where [i] note that the word *Curulis*, is ſometimes vſed ſubſtantiuely, and then it ſignifieth ſome chiefe Magiſtracy or Office amongſt the *Romans*. The gowne by which they were diſtinguiſhed from other Magiſtrates or priuate men, was a certaine purple gowne, which from the great embroidred workes was called *Trabea*, and he that did weare it was called *Trabeatus*, according to that, *Trabeati curu Quirini*. It will bee worthy our obſeruation to note, that the *Romanes* did date their Deeds and Charters in old time, by naming the yeere wherein their Citie was firſt founded; as to ſay *Ab vrbe condita* the twentieth, thirtieth or fortieth yeere, &c. But in proceſſe of time their manner of dating was by ſubſcribing the names of their preſent *Conſuls*: as to ſay, ſuch a thing was determined *L. Valerio, M. Horatio Conſulibus*, ſuch and ſuch being *Conſuls*. Whence *Suetonius* ſpeaking of *Iulius Cæſar*, ſaith, he was appointed to be *Flamen Dialis, ſequentibus conſulibus*, that is, the

[f] Alex. Gen. dier. l. 5. c. 3.

* Cæl. Rhod. lib. 12. c. 8.

[g] Feneſt. de magiſt. Rom.

[h] A. Gell. l. 3. cap. 18.

[i] Stadius in Flor. l. 1. c. 5.

the next yeare following. Yea, this was so common a date, that to know the age of their wines, they signed their vessels with the names of their *Consuls*, adding withall, that they might know the goodnesse of their wine, the name of the country whence it came, according to that of *Iuvenal. sat.* 5.

——— *Cuius patriam, titulumque senectus*
Deleuit multa veteris fuligine testa. *Turn. adv. l.* 1. *c.* 1.

Those alone who had borne the office of a *Consul*, not euery one that was capeable thereof, were said to be *Viri consulares*.

k At the first those who were created *Consuls*, remained in their office the space of an whole yeare, being *designati ad consulatum* vpon the twenty fourth of October. l *At consulatum non inierant ante Calendas Ian.* that is, the first of *Ianuary*. The reason of this chasme, or *interim* betweene their designation vnto their office and their entry into it, was (as we may probably coniect) that the competitors might haue some time to enquire *de Ambitu*, that is, whether there was no vndirect and vnlawfull meanes vsed in their canvassing. In processe of time either by voluntary resignation, or deposition, or death many *Consuls* haue been chosen in the same yeare, and they were called m *Non ordinarij & suffecti Consules*. At such times all their deeds were dated by the names of the two first *Consuls* which began the yeare: whence those two first, and likewise all those that continued in their office the whole yeare were called n *Consules Honorarij*, and *Consules Ordinarij*.

k I. Tiſsinus in orat. Cic. pro Cœlio.

l P. Ramus in orat. Catil. 1.

m Fr. Sylvius in Cic. Orat. pro Muræn.

n *Rosin. ant. Rom. l.* 7. *c.* 9.

Cap. 5.

De Censoribus.

THE *Consuls* finding themselues encombred with so many businesses of a different nature, did by consent of the *Senate* choose two peculiar officers called o *Censores à censendo*; because they cessed and valued euerie

o Fenest. de magist. Rom. cap. 17.

mans eſtate, regiſtring their names, and placing them in a fit centurie. For it did concerne the *Romanes* to know the number, and likewiſe the wealth of their people, to the end they might be informed of their owne ſtrength, and ſo ſhape their courſe accordingly, either in vndertaking warres, tranſplanting Colonies, or in making proviſion of victuals in time of peace. A ſecond and maine part of their Office was in reforming manners, to which end they had power to enquire into euery mans life. This part of their authority was noted out vnto vs by this phraſe, being called *Tirgula cenſoria*. If any one had plaied the ill husband, & neglected his Farme, or left his Vine vntrimmed, the *Cenſors* tooke notice thereof. They did *Senatu & Tribu mouere*, that is, they did depoſe Senatores and pull downe men from a more honorable Tribe, to a leſſe honorable. *Diminutio maxima* was the loſſe of ones Tribe, City, and Freedome. Theſe *Cenſors* were reputed of the beſt rancke of Magiſtrates in *Rome*: they remained in their Office an whole fiue yeeres ſpace ordinarily. I ſay ordinarily, becauſe[r] through the abuſe of their place, the Office hath beene made ſometimes annuall. [f] That fiue yeeres ſpace the *Romanes* did call *Luſtrum*, becauſe they did once in euery fiue yeeres revolution *Luſtrare exercitum Romanum*, by ſacrifice purge the *Romane* Armie. Hence we ſay *duo Luſtra*, 10. yeers; *tria Luſtra*, 15. yeeres, &c. The performance of this *Luſtration* belonged alſo vnto the *Cenſors*: for after the *Cenſors* had performed the one part of their office, in regiſtring the iuſt valuation of euery Citizens eſtate, [t] they did lead a Sow, a Ram, and a Bull, three times about the Armie, & in the end ſacrifiſed them to *Mars*: and thus to purge an Armie, is *condere Luſtrum*; though ſometimes *condere Luſtrum* doth ſignifie, to Muſter an Armie. Theſe ſacrifices, as likewiſe all others of the like nature, that is, wherein there was a Sow, a Ramme, and a Bull ſacrificed, were termed ſometimes [u] *Suouetaurilia*, ſometimes *Solitauralia*, ſometimes [x] *Taurilia*. Moreouer, it did belong vnto theſe *Cenſors* to farme out the tributes

r Feneſt. de magiſt. Rom. cap. 7.

f Pomp. Læt. de Rom. mag. c. de Cenſor.

t Pancirol. lib. rerum deperd. c. de cibi capiendi modo.

u Alex. Gen. dier. l. 5. c. 27.

x Pomp. Læt. de mag. Rom. c. de Cenſor.

butes, impoſts, tollage, &c. y At the five yeeres end, the Acts of both their *Cenſors* were regiſtred vpon bookes of record, which records were laid vp in a certaine religions houſe dedicated to the *Nymphs*. Whence z *Cicero* ſpeaking of *Clodius*, ſaith *Qui aedem Nympharum incendit, vt memoriam publicam incenſis tabulis publicis impreſſam aboleret.*

y Pancirol. lib. rerum deper. dit. cap. de cibi capiendi modo.

z Cic. pro Milone.

Cap. 6.

De Praetoribus.

THE *Conſuls* by reaſon of their many troubles in warre, hauing no time to adminiſter iuſtice vnto the *Romane* people, did for their better helpe therein, create two new Officers for the executing of iuſtice; the one to examine and iudge of matters within the City, betweene Citizen, and Citizen; the other to decide controuerſies betweene forreiners: The firſt they a called *Praetorem vrbanum*, and *Praetorem maiorem*; the other *Praetorem peregrinum*, & *Praetorem minorem*: we may Engliſh them Lord-chiefe-Iuſtices. Where we muſt note, that at the firſt there was onely the *Praetor Vrbanus*, vntill the caſes and ſuits in Law became ſo many, that one was not ſufficient to heare them all: b yea at laſt the number of the *Praetors* came to ſixteene: namely, when thoſe two were added for the prouiding of corne and graine: whence they were called *Praetores cereales*; c nay there were at laſt eighteene *Praetors*, there being two others added to iudge of controuerſies touching feofments of truſt, called thence *Praetores fidei commiſſarij*. d *Cauſarum duo genera ſunt: aliae priuatae, aliae publicae, has crimmoſas, illas ciuiles appellant.* In thoſe caſes which were priuate, that is touching equitie and vprightneſſe of any act, or the reſtitution of any mony, or goods vnlawfully detained from the right owner, it belonged principally vnto the f two firſt *Praetors* to iudge: g but vnder them vnto the *Centumviri*, who oftentimes are called by *Tully Recupera-*

a Pighius aequipet. comp.

b Alex. Gen. dier. l. 2. c. 15

c Feneſt. de mag. Rom. c. 19.

d Fr. Syluius in orat. pro Muren.

e l. Saxonius in Cic. orat. pro S. Roſcio.

f Roſin. ant. lib. 7. c. 11.

g l. Saxonius ibid.

cuperatores, and *Iudices hasta*; the Court *Hasta centum viralis*; becauſe one of the markes and ſpeciall enſignes was a Speare erected vp in the place the Court was kept. Thoſe caſes which were publike or criminal, as Treaſon, Murder, buying of voices in the canuaſſing for Offices, &c. were called alſo *cauſæ capitales*, & *capitis dimicatio*, that is, [h] ſuch caſes wherein if any party accuſed haue beene found guilty, he was *capite damnatus*: by which phraſe wee muſt not vnderſtand alwaies *Vltimum ſupplicium, ſed aliquando exilium, quo ſcilicet caput*, that is, *civis eximitur à ciuitate*. [i] Theſe caſes at the firſt were heard by the Kings and *Conſuls*; afterward by certaine appointed thereunto by the people, being called from their inquiſition *quæſitores parricidij*. In continuance of time the examination and hearing of theſe publike caſes was turned over vnto certaine Magiſtrates, who becauſe they were to continue their Office a full and entire yeere (whereas the others had their authority no longer then they ſate in iudgement) were thence for diſtinction ſake called *Prætores Quæſitores*, and the caſes were termed *Quæſtiones perpetuæ*: [k] becauſe in theſe caſes there was one ſet forme of giuing iudgement perpetually to remaine; where as in thoſe priuate or ciuill cauſes, the *Prætor* did commonly euery yeere change the forme of iudgement, by hanging vp new edicts. [l] Here we muſt note, that theſe *Quæſitoras Parricidarum*, otherwiſe called *Prætores Quæſitores*, had not the examination of all publique caſes, but ſometimes vpon extraordinary occaſions either the *Conſuls*, the *Senate*, or the people themſelues, would giue iudgement. Now as thoſe former *Prætor*, had a Speare erected vp, whereby their Court for priuate cauſes was knowne; ſo had theſe *Quæſitores* a Sword hanged out in token of their Court. [m] *Prætorum inſignia duo fuere, haſta, & gladius; illa ad iuris dictionem, hic ad quæſtionem ſignificandam.* The Officers which did attend theſe *Prætors* were *Scribæ*, that is, certaine notaries much reſembling the Clearkes of our Aſſiſes, their Offices being to write according as the *Prætors*

or

h Fr. Sylua in orat. pro Mur.

i Roſin. ant. lib. 9. c. 18.

k Roſin. ant. lib. 7. c. 11.

l Roſin. ant. l. 6. c. 18.

m Sig. de iud. lib. 1. c. 7.

or chiefe Iustices did bid them, taking their name *à scribendo*. The second sort were called, *Accensi ab accicndo*, from summoning, because they were to summon men to their appearance. They much resembled our Bayliffes errant. The third sort were *lictores* of which before: [n] The authority of the vrbane *Prætor* was so encreased in time, yea his honour was such, that whatsoeuer he commanded, it had the name of *Ius honorarium*. [o] Others are of opinion, that onely the *Prætors* edict was that *Ius honorarium*; [p] the *Prætor Vrbanus*, being wont at the entrance into his Office, to collect a set forme of administration of Iustice out of the former Lawes and seuerall Edicts of former *Prætors*, according vnto which he would administer Iustice all the yeere following. And vnlesse the people might be ignorant of the contents thereof, he caused it to be hanged vp to the publike view. This forme of Iustice was termed *Edictum, ab edicendo, id est, [q] imperando*; because thereby he did command, or forbid something to be done. Whence *Pellitarius* in the place now quoted doth translate *consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrates Edicts. It was commonly called, *Prætoris edictum*. And as *Pighius* obserueth in the place aboue quoted, it was called *edictum perpetuũ*; not absolutely, because the vertue thereof was perpetuall (for that expired together with the *Prætors* Office, and therefore [r] *Tully* calleth it *legem annuam*:) but in respect of other Edicts made in the middle of the yeere vpon extraordinary and vnexpected occasions, which latter sort of Edicts [s] *Tully* calleth *peculiaria & noua edicta*. Afterward, [t] *Salvius Iulianus* collected an Edict out of all the old Edicts of the former *Prætors*, wherein almost all the whole ciuill Law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* euer after did administer Iustice according to that Edict, by the appointment of *Hadrianus* being then Emperour. The Edict beeing giuen out, and administration of Iustice consisted in the vse of one of these three wordes, *Do, Dico*

n Feneſt. de Rom. magiſt. cap. 19.
o P. Pellit. in Cic. orat. pro A. Corcinna.
p Pighius Æquipet. comp.
q P. Pellitarius, in orat. pro A. Cæcin.
r Cic. in Ver. 2
s Cic. in Ver. 5
t Sig. de iud. lib. 1. c. 6.

co, & Addico, id est, [u] Dat actionem, Dicit ius, Addicit tam res, quam homines. That is, he is said *Dare*, when he granteth out an action or writ against a man, *Dicere* when hee passeth iudgement on him, and *Addicere* when he in the Court doth see & allow the deliuery of the thing, or the person on which iudgement is passed. The forme of Addiction was thus. After iudgement had beene pronounced in the Court, the party which preuailed, laid his hand on the thing or the person against which sentence was pronounced vsing this forme of words, *Hunc ego hominem siue hanc rem ex iure Quiritium meam esse dico.* Then immediatly did the Chiefe Iustice *Addicere*, that is, approue the challenge, and grant a present possession. *Anton in Fast. lib. 1.* For explanation whereof we must know, that this word *Addico* is sometimes *verbum Augurale*, sometimes *Forense*, sometimes a terme of Art belonging vnto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approued by the Gods; the opposite hereunto is *Addicere.* Sometimes this verbe *Addico*, is a terme of Law, signifying as [x] much as to deliuer vp into ones hands, or into ones possession: whence wee doe not onely call those goods that are deliuered by the *Prætor* vnto the right owner *Bona addicta*, but those debtors also which are deliuered vp by the *Prætor* vnto his creditors to worke out their debt, are termed *Serui Addicti*: yea moreouer because in all port-sales it was necessary that the *Prætor* should *Addicere bona*, deliuer vp the goods sold: hence doth this word often signifie to sell, as *Addicere sanguinem alicuius*, to take mony to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores à præeundo quoniam iure præibant.* And [y] those alone were properly termed *viri prætorij*, which had borne this Office, not they which were capeable thereof: in the same sense we say, *Viri censorij*, and *viri Ædilitij*, &c.

[u] Ioac. Camerarius in orat. pro Flacco.

[x] M. Toxita. in orat. pro Pub. Quint.

[y] Fr. Maturantius in Philippic. 13.

CAP

Cap. 7.

De Imperatoribus, Cæsaribus, siue Augustis.

WHen *C. Iulius Cæsar* had ouercome *Pompey* his sonnes in *Spaine*, at his returne to *Rome* the *Senate* welcomed him with new inuented titles of singular honour, styling him, *Pater patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus* and *Imperator*; all which titles were afterward conferred vpon *Octauius Cæsar*, and all the Emperours succeeding desired to be called, *Imperatores & Cæsares* from him. Where we must vnderstand, that this name *Imperator* was not altogether vnknowne before; for by that name the *Romane* Souldiers were wont (euen at that time) to salute their L. Generall after some speciall conquest.

2 These *Romane* Emperours were afterward called also *Augusti* from *Octauius Cæsar*, whom when the Senate studied to honour with some Noble title, some were of minde that he should be called *Romulus*, because hee was in manner a second founder of the Citie. But it was at length decreed by the aduise of *Munutius Plancus*, that he should by stiled by the name of *Augustus*: which we may English **Soueraigne**, and they counted this a name of more reuerence and Maiesty then that former name of *Romulus*, because all consecrated and hallowed places were called *Loca Augusta*. The authoritie of these Emperours was very great, even as great as the Kings in former times.

2 Serv. Æneï. lib. 6.

Cap. 8.

De principibus inventutis Cæsaribus, & nobilissimis Cæsaribus.

a Rosin. ant. l. 7. c. 13.

A Custome was receiued amongst the *Romane* Emperours in their life time, to nominate him whom they would haue to succed them in their Empire: and him they called *Princeps inventutis*, *Cæsar*, and *Nobilissimus Cæsar*. The like custome was practised by *Charles* the fifth, Emperour of *Germany*, and so hath beene continued by his successors; namely, that one should bee chosen whom they called *Rex Romanorum*, who should be so farre invested in the title to the Empire by the meanes of the present Emperour, that vpon the death, resignation, or deposition of the then being Emperour, he immediately should succeed.

Cap. 9.

De Præfecto vrbis.

ROmulus for the better gouernment of the Citie, appointed a certaine Officer called *Vrbis Præfectus*, to haue the hearing of all matters or causes betweene the Master and Seruant, betweene Orphanes and their ouerseers, betweene the buyer and the seller, &c. Afterward in time of the *Romane* Emperours, this *Vrbis præfectus* did assume vnto himselfe such authority, that hee would examine and haue the hearing of all causes, of what nature soeuer, if they were *Intra cantesimum lapidem*, within an hundred miles of *Rome* (for b *Lapis* in old time signified a mile, because at euery miles end a great stone in manner of a marke stone was erected.) In the absence of the King or Consuls, hee had all authoritie which belonged vnto them resigned vnto him. I am

b Dispauterius in sua syntaxi.

not

not ignorant, that some doe make this latter kinde of Prefecture, or Lieutenantship, a different Office from the former. But I should rather thinke them to be one and the same, onely his authority to be more enlarged in the Kings absence, and of this opinion doe I finde *Feneſtella*, *Alexand. Neopol.* and [c] *Sigonius.*

c Sig. de iure Rom. l. 1. c. 20

Cap. 10.

De Decemviris legibus ſcribendis.

FOR the better administration of iustice: the [d] *Romanes* appointed three men, namely [a] *Sp. Poſthumius*, *Ser. Sulpitius*, *A. Manlius* to goe to *Athens*, and other *Grecian* Cities, there to peruse the *Grecian* Lawes: to the intent that at their returne, both a supply might bee made of those Lawes that were wanting in *Rome*, and the other which were faultie, might thereby bee rectified and amended. At the returne of those three men, the *Conſuls* were deposed, and both their authority and ensignes giuen vnto [b] ten men newly elected for the gouernment of the State, and were thence called *Decemviri*. The first elected into this Decemuirat were, *Ap. Claudius*, *T. Genutius*, *P. Sextius*, *Sp. Veturius*, *C. Iulius*, *A. Manlius*, *Ser. Sulpitius*, *P. Curiatius*, *T. Romulius*, *Sp. Poſtumius*. All of them such as had borne the Office of a *Conſul*. The Lawes which they brought from *Athens* were written at first in ten tables of brasse: afterward two other tables were added, at which time those lawes beganne to bee knowne and distinguished from others by the name of *Leges 12. tabularum*. And according to those Lawes, iustice euer after was administred to the *Romane* people: at first by these ten men appointed thereunto, whose authoritie was as large euen as the *Kings* and *Conſuls* in old time, onely it was annuall, one of them onely had the ensignes of honour carried before him: one alone had the authority of conuocating the Senate,

d Feneſt. de magiſt. Rom. cap. 14.
a Roſin. lib. 7. cap. 19.
Lipſ. Reg. Leg.

confirming their decrees, and the discharge of all state businesses. [e] The other did little differ from priuate men in their habit; only when the first had ruled a set time, the others succeeded by turnes. This kinde of gouernment did not continue long in *Rome*, for in the third yeere all their power was abrogated, because of their tyranny and oppression vsed by them towards the *Romane* people.

e Rosin. ant. Rom. l. 7. c. 19

Cap. 11.

De Interregia potestate.

[f] After the death of *Romulus*, the *Senators* diuided themselues into seuerall companies called *Decuriæ*, committing the gouernment of the Kingdome to that *Decury*, that is, to those ten men, vpon whom the lot fell, calling them the *Interreges*: where we must know, that those ten did not rule altogether, but each man ruled for the space of fiue daies, whence [g] *Rosinus* calleth this Magistracie *Magistratum quinqueduanum*. After that fiue daies gouernment had passed through the first, then did they goe to lots to haue a second *Decury* chosen, and so a third, &c. This Office of an *Interrex* remained euen in the *Consuls* time, so that if by some extraordinary occasion the *Consuls* could not bee created, [h] then they chose one, to whom alone they committed the whole gouernment of the Kingdome, and him they called *Interregem*.

f Dion. Halic. l. 2.

g Rosin. lib. 6. cap. 16.

h Alex. Gen. dier. l. 5. c. 6.

Cap. 12.

De Dictatore.

VVHensoeuer the *Romanes* found themselues encombred with dangerous warres, or any other emminent dangers, they presently chose a *Dictator*, to

to whom alone was committed the authority and rule of the whole Kingdome, differing from a King onely in reſpect of his name, and the continuance of his Office. Touching his name he was ſo called, *quoniam dictis eius parebat populus.* His Office continued but ſix months, and at the expiration thereof, if need required, he was choſen againe for another ſix months. He was alſo called[i] *Populi Magiſter*, in as much as none could make their appeale from him vnto the people. As ſoone as himſelfe was eſtabliſhed in his Office, he choſe a ſubordinate Officer whom he called[k] *Equitum Magiſter*: his authority much reſembled his, whom they called *Vrbi Præfectam*: for as the *Præfectus vrbi* in the abſence of the King, ſo this *Magiſter Equitum* in abſence of the *Dictator*, had full and vnconteuleable authority of doing what he would.

i Pighius in Tyrann.

k Stadius in Flor. l. 1. c. 31.

Cap. 13.

De Tribunis militum.

THeſe[l] military *Tribunes* were of two ſorts. The one had all power and authority which belonged vnto the *Conſuls*; and thence were called *Tribuni militum conſulari poteſtate*. The occaſion of them was this: The Protectors of the Commons called *Tribuni plebis*, did earneſtly labour that the Commonalty might bee made as capeable of the conſular dignitie as the Nobilitie: [m] This was followed ſo hot, that in the end though the Nobility would not grant them way vnto that dignity vnder the name of *Conſuls*; yet in effect they would grant it them. Namely, the *Conſuls* ſhould bee depoſed, and in their ſteed other Magiſtrates ſhould bee choſen; part out of the Nobilitie, part out of the Commonalty, who though they were not called *Conſuls*, but *Tribuni*, yet were they of *Conſular* authority: By which they were diſtinguiſhed from the other ſort of Military *Tribunes*, who had power and authoritie onely in matters Military, and were knowne

l Roſin. ant. lib. 7. c. 20.

m Roſin. ibid.

knowne by the name of *Tribuni militum* without any addition. [n] Sometimes there was one of these three words prefixed, *Rutuli*, or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate vnto vs any distinction of office or place, but to signify their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed vnto them by vertue of an Act or Law prefered by *Rutulius Rufus*, when hee was *Consul*. If they were chosen by the Souldiers themselues in their Campe, then they were called *Tribuni suffecti*, that is *Tribunes* substituted or put in the place of another. Whence we may coniect, that the Souldiers were not permitted to make any election, but in the time of neede, when their former *Tribunes* were taken from them by some violent or vnnaturall death. The last sort called *Comitiati*, were so called because they were chosen by the *Romane* assemblies, called in Latine *Comitia*. They were named *Tribuni*, because at the first institution of them (whether wee vnderstand the Consular *Tribunes*, or this later sort) there were but three of each. In processe of time notwithstaning I finde the number not onely of those *Consular Tribunes*, [o] but of those other also to haue bene encreased to sixe, accordingly as the thousands in a Legion were multiplied. These latter sort of *Tribunes*, in respect of their military discipline, which was to see the Souldiers being faulty to be punished, we may English **knights marshall**: In respect that their authority was ouer foot men onely, we may English them **Seriants maior**: onely this difference there was, to euery thousand of foot-men in any Legion, there were as many military Tribunes vnder their chiefe Commander called *Imperator*. But in our English Armies there is but one **Seriant maior**, who alone vnder the L. Generall hath command ouer all the foot-men, bee there neuer so many thousands.

n Alex. Gen. dier l. 6. c. 18.

o Rosin. antiq. lib. 7. c. 20.

CAP.

Cap. 14.

De Triumviris Reipub. constituendæ.

THis tyranny of the *Triumviratus*, began by a conspiration, betweene *Augustus Cæsar*, *Antonius*, and *Lepidus*. For these three, vnder the pretence of revenging *Iul. Cæsar* his death, obtained chiefe power and authoritie for the space of fiue yeeres throughout *Rome*, [p] pretending that they would settle the Common-wealth, which at that time by reason of *Iul. Cæsars* death, was much out of order. Those fiue yeeres being expired, they refused to resigne there authoritie, exercising excessiue cruelty towards all the *Romans* of what degree soeuer. [q] This kinde of gouernment remained but ten yeeres, neither euer were their any other then those three aboue named. They had power to enact any new Law, to reuerse any former Act, without the consent of the *Senate*, or Commons. They might proscribe and banish any *Romane* at their pleasure; and as often as we reade *de Triumviratu* simply without any adiunction; or *de Triumviratu Senatus legendi*, we are to vnderstand it of this, though some vpon vnsure grounds doe disioyne them.

[p] Feneſt. de magiſt. Rom. cap. 21.

[q] Suet. Octa. Aug. cap. 27.

Cap. 15.

De Quæstoribus ærarij.

THis Office of the *Quæstors*, seemeth not vnlike to a publique Treasurers, which collecteth the subsidies, customes, money, yeerely reuenues, and all other paiments belonging to any State, or Corporation. And hence [r] *quoniam publica pecuniæ quærendæ præpositi erant*, they tooke their name *Quæstores*: Sometimes they are called *Quæstores Vrbani*, to distinguish them from the prouinciall *Quæstores*,

[r] Feneſt. de Rom. magiſt. cap. 3.

which bare Office in the *Romane* prouinces: ſometimes they are called, *Quæſtores ærarij*, to diſtinguiſh them from thoſe that were called *Quæſtores parricidij*, or *rerum capitalium*, of which you may ſee more in the Tract *de prætoribus*. [f] Laſtly, they were called, *Queſtores ærarij*, to diſtinguiſh them from the *Tribuni ærarij*, that is, thoſe Martiall Treaſurers, or Clarks of the Band, which did receiue the Souldiers pay from theſe Citie-Treaſurers, and ſo pay it to the ſouldiers. The Office of theſe Citie-Treaſurers (then being at firſt but two) was to receiue all the City-accounts; to diſburſe at all occaſions of publike expenſes: to take an oath of him that the ſouldiers had ſaluted by the name of *Imperator*, that he had truly informed the *Senate* both of the number of the enemies ſlaine, as alſo of the number of Citizens loſt: otherwiſe he might bar the Emperour of his Triumph. Moreouer, whatſoeuer ſpoiles were taken in warre, they were deliuered vp vnto theſe Citie-*Quæſtores*, and they ſelling them, laid vp the money in the great Treaſure-houſe called, *Ædes Saturni*.

[f] Sig. de iure Rom. l. 2. c. 8.

Cap. 16.

De Tribunis Plebis.

THE [t] *Romane* Commonalty finding themſelues oppreſſed by the wealthier ſort, departed vnto the *Aduentine* Mount, threatning the *Roman* Nobility, that they would forſake their Citie, and never againe adventure themſelues in warre for the defence thereof, vnleſſe they did finde ſome releaſe and eaſement, from thoſe exceſſiue payments of vſe and intereſt vnto their creditours: yea beſide the remiſſion of their preſent debts, before they would returne vnto their Citie againe, they would haue certaine Magiſtrates choſen, which ſhould bee [u] *Sacroſancti*, that is, ſuch as might not bee hurt or violently vſed, not ſo much as in words: and if any had violated that law, whereby they were made *Sacroſancti*

[t] I. Roſa. in Epit. rerum Rom.

[u] Roſin. ant. l. 7. c. 23.

sancti, then was he accounted *homo sacer*, that is, an excommunicate person, or such an one whose soule should be vowed vnto some God; insomuch, that if any after had killed him, he should not be lyable vnto iudgement: [x] *quoniam illius anima dijs devota amplius humani commercij non sit.* To these [y] Magistrats the protection of the Commons was committed, who because they were at first chosen out of the *Military Tribunes*, therefore did they alwaies retaine the name of *Tribunes*, being called that they might be distinguished from the others, *Tribuni Plebis*, Protectors of the Commons. At the first institution of them they were in number but 2. as [z] some haue thought: [a] Others say fiue: afterward (as it is yeelded by all writers) they encreased vnto ten. Their authority at first consisted chiefely in this, that they had power to hinder any proceedings in the *Senate*, which they thought might proue preiudiciall vnto the Commons; so that they had not authority to enact any new decrees, as afterward by abusing their authority they did. [b] *Sed eorum autoritas magis in intercedendo, huùm iubendo.* And hence was it, that in old time these Protectors of the Commons were not permitted to come into the Senate: but [c] they sate without at the dore, whether whatsoeuer was determined within the Senate was sent vnto them, to be perused by them, and if they did approue it, then did they subscribe a great *Romane* T. being the first letter of this word *Tribuni*. [d] The houses of these Tribunes stood open night and day, as a common refuge or place of succour for all that would come; [e] neither was it lawfull for them to be absent out of the Towne one whole day throughout the yeere.

x Alex. Gen. dier l. 6 c. 14.
y Rosin. ant. lib. 7. c. 23.
z Pighius in suo Tyranni fug.
a Pomp. Latus.
b Stadius. in Flor. l. 3. c. 2.
c Pighius in suo Tyranni fug.
d Rosin. antiq. Rom. lib. 7. c. 23.
e Pighius in suo Tyranni fug.

Cap. 17.

De Ædilibus, & Præfecto annonæ.

WE may read of three sorts of *Roman* Maigistrates called *Ædiles*; the two first had their names *ab ædibus curandis*, hauing in their charge to repaire

both Temples and priuate dwelling-houſes which belonged vnto the City. The firſt ſort were called, *Ædiles curules*, *aſella curuli*, from the Chaire of State, wherein it was permitted them to ride; and theſe were choſen[f] out of the *Senators*. The ſecond ſort were called, *Ædiles plebeij*, and they were added vnto the former at the earneſt ſuite of the Commons, they being to be choſen out of them. Where we muſt note that they were not ſo added, that both ſorts ſhould rule at one and the ſelfe ſame time, [g] but that the *Curules* ſhould rule the one yeere, and the *Plebeij* the other. To theſe *Ædiles* it did belong, beſide the reparation of Temples and priuate houſes, to looke vnto the weights and meaſures in common ſale: for they had power to examine, *Actiones redhibitorias*, that is, ſuch actions, by vertue of which he that had ſold any corrupt or ſophiſticated wares, was conſtrained to take them againe. Moreouer, they had the charge of the publike Conduits or water-conveiances of prouiſion for ſolemne plaies, &c. Of the third ſort there were alſo two, who were in a manner Clarkes of the Market. [h] For vnto them belonged the looking vnto the victuals ſold in the Market, and Corne: Whence they were called by them, *Ædiles cereales*; and [i] by the *Greekes* ἀγορανόμοι. This Office, for ought that can be collected out of thoſe that treat of it, differeth but little from his, whom the *Romanes* called *Annonæ Præfectum*; onely this, the *Ædiles Cereales* were *magiſtratus ordinarij*, the *Præfectus*, *extraordinarius*, namely, [k] ſuch as was choſen onely in time of extraordinary dearths; hee hauing for that time larger authority then thoſe other ordinarie Clarkes of the Market. For as it appeareth by *Roſinus* in the place now quoted, this *Præfectus* had power of himſelfe, to examine all ſuch caſes or quiſtions as ſhould ariſe touching the dearth: as ſuppoſe we hoarding of corne, foreſtalling the market, &c.

Phile. 1. in l. 2. Cic. epiſt. am. 10.

g Alex. Gen. dier. l. 4. c. 4.

h Alex. Gen. Ibid.

i Pighius in ſuo tyrannif.

k Roſin. ant. l. 7. c. 38.

CAP.

Cap. 18.

De Triumviris.

BEſide that *Triumviratus Reip. conſtituendæ*, of which we ſpake before, there were diuers kinds of *Triumviratus*; namely, *Triumviri capitales*, three high Shireiffes, who had the charge of priſons, and were to ſee malefactors puniſhed: for which purpoſe eight *Lictors* did attend them. There were alſo [l] *Triumviri Menſarij*, three men, we may terme them Bankers, who had authoritie to pay out of the common treaſury poore mens debts. Sometimes there were appointed fiue to this office, whence they were called alſo [m] *Quinqueviri Menſarij*, both being called *Menſarij* from *Menſa*, a table, whereon they told their mony. Another ſort of *Triumviri* there were appointed to preſſe ſouldiers, whence they were called, *Triumviri conquirendi iuuenes idoneos ad arma ferenda*. We reade alſo of certaine *Triumviri*, which were elected as chiefe Captaines to guide and conduct the people in tranſplanting Colonies; and thence were they named *Triumviri Coloniæ deducendæ*: but ſometimes for this purpoſe they elected ſeuen, tenne, or twenty, and ſo named them *Quinqueviri*, *Septemviri*, *Decemviri*, and *Vigintiviri Coloniæ deducendæ*. Three other ſorts of *Triumviri* remaine, which were offices of ſmall account; as the *Triumviri monetales*, three Maſters of the Mint, who thence were called *Triumviri A. A. A. F. F.* that is, *Auro, Argento, Ære, Flando, Feriundo*; for they had the charge of coyning the mony. Secondly, *Triumviri valetudinis*, Three Peſt-men, which were to ouerſee thoſe that lay infected with any contagious ſickneſſe. Thirdly, [n] *Triumviri nocturni*, three Bell-men which were to walke the towne at night, and to giue notice of fire.

l Alex. Gen. dier. li. 3. c. 16.

m I. Camerar. in orat. Cic. pro Flacco.

n Alex. Gen. dier. l. 3. c. 16.

Cap. 19.

De Præfectis Ærarij.

Augustus Cæsar desiring for the better safetie of the Citie, to maintaine many bands of souldiers, which should alwaies be in readinesse for the defence of the Citie, desired of the Citie an yearely subsidie for the maintenance of those souldiers: but being denied it, he built a certaine Treasure-house, which he called *Ærarium militare*, whereinto he cast his money for himselfe, and *Tiberius*; and promised to doe so euery yeare. Afterward, when hee saw the Treasury not to bee enriched enough, either by that money which himselfe bestowed, or by the contributions of others, hee appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poore) should fall vnto this Treasurie. For the charge and custodie hereof, he appointed three of those souldiers, which alwaies attended about him for the safegard of his person, calling them, *Præfectos Ærarij*.

Cap. 20.

De Præfecto Prætorio.

ALL Captaines and Gouernours to whom the rule of an army belonged, were in ancient time called ◦ *Prætores*: This word *Prætor* signifying then three chiefe officers among the *Romanes*: First, a *Consull*; secondly, a Lord Chiefe Iustice; thirdly, a Lord Generall in war; all of them being called ℘ *Prætores, quasi Præitores quoniam iure & exercitu præibant*. Answerable to which threefold acception, this word *Prætorium* hath three seuerall significations: sometimes it signifieth a Princes Palace, or Manour house; sometimes a great

◦ Pancirol. in notitiam imper. orient. c. 5.

℘ Pighius in Æquipet. compos.

great Hall or place where iudgement was wont to be giuen; and laſtly the L. Generall his pauilion in the Campe; [q] from which laſt ſignification it is, that thoſe ſouldiers that gaue attendance about that Pauillion, for the gaurd of their Captaines perſon, are ſometimes called, *Milites Prætoriani*, ſometimes *Cohors prætoria*; [r] and ihee to whom the ouerſight of theſe ſouldiers was committed, was thence called, *Prætorio præfectus*.

[q] Aſconius in Verrinam, 3.

[r] Fr. Sylu. in Catil. 2. m.

CAP. 21.

De Aduocato fiſci.

FOR the right vnderſtanding of this Office, wee muſt firſt note a difference betweene theſe two words, *Ærarium*, and *Fiſcus*. *Ærarium* was a common treaſury belonging vnto a whole State or Corporation, whence all publike and common expences are to be ſupplied. *Fiſcus*, was the Kings or Emperours priuate coffers: it may be Engliſhed the **Kings Exchequer**. The keeper thereof was called *Aduocatus Fiſci*. There are many other petty Offices within the City, which I haue purpoſely omitted, becauſe there is but ſeldome mention of them in old Authors; and as often as they are mentioned, their names doe explaine their Office.

CAP. 22.

De præcipuis Magiſtratibus prouincialibus.

OVer the Prouinces at firſt ruled certaine Magiſtrates ſent from *Rome*, by commiſſion from the *Romane* Senate, called *Prætores*, whoſe Office was to adminiſter iuſtice vnto the Prouinciall inhabitants; yea, and if occaſion ſerued, to make warre alſo vpon their enemies; and this was the reaſon that the number of the *Praters* did ſo encreaſe alwaies,

waies, namely, accordingly as the number of Prouinces did encreaſe. The warres and tumults in the Prouinces ſometimes were ſo great, that the *Prætor* was not ſufficient both to manage warre & execute iuſtice: whereupon the *Senate* thought fit to ſend another Magiſtrate into the Prouinces, whom they called a *Conſul*, becauſe properly the managing of warre belonged vnto the *Conſul*. So that there were at firſt two ordinary Prouinciall Magiſtrates, a *Conſul* to manage warre, and a *Prætor*, or L. chiefe Iuſtice to ſit in iudgement. And if theſe two by a ſecond grant from the *Senate* did continue in their Office, aboue the ſpace of an yeere, then were they called *Proconſules, & Propretors*. But in proceſſe of time, this cuſtome was altered: For then none could be *Proconſuls*, but thoſe alone who had beene *Conſuls* in *Rome*; neither could any bee *Propretors*, which had not beene *Prætors* at *Rome*. Their manner being, that the next yeere after the expiration of their offices in *Rome*, they ſhould depart into ſome certaine Prouince, to beare the ſame office againe, being not called *Conſuls*, or *Prætores* as before, but [f] *Proconſules, & Propretores*; and for this cauſe alwaies, ſo ſoone as the *Conſuls* had beene created, the *Senate* did appoint certaine Prouinces for the *Conſuls*, which being appointed, the *Conſuls* did either agree betweene themſelues, who ſhould goe to the one, who to the other; and that was termed, *comparare prouincias*; or elſe they did decide the queſtion by lots, and that was termed *ſortiri prouincias*; howbeit ſometimes the *Senate* did interpoſe their authority, and diſpoſe the ſame. Vnder the Emperours the gouernours of ſome Prouinces were appointed by the *Senate*, and the people, and thoſe were called *Proconſules*, and the Prouinces, [t] *Prouinciæ Conſulares*; others were appointed by the Emperours, and they were called *Propretores*, and the Prouinces *Prætoriæ Prouinciæ*. For all this, which hath beene noted touching the Prouinciall Magiſtrates, it is almoſt *verbatim* tranſlated out of [u] *Roſinus*. To which wee adde this, namely, that euery *Proconſul* and *Propretor* did v-

[f] Alex. Gen. dier. l. 3. c. 3.

[t] I. Camerar. pro L. Flacco.

[u] Roſin. ant. l. 10. c. 24.

ſually

vsually chooſe a Lieutenant ſuch a one as ſhould be aſſiſtant vnto him in matters of gouernment, whom they called *Legatum*: So that this word *Legatus* ſignified three ſeuerall *Magiſtrates* amongſt the *Romans*, two whereof may be proued out of [y] *Sigonius*: firſt, that it ſignified ſuch a Lieutenant, or L. Deputy vnder a *Proconſul*, or *Propretor* in a Prouince: ſecondly, that in ſignified ſuch a one as is imployed in the deliuery of a Meſſage or Embaſſage from one Prince or State to another; we commonly call them **Embaſſadors**. Laſtly, it ſignified a Lieutenant or chiefe Captaine in warre, whoſe place was next vnder the L. Generall. His Office at the firſt inſtitution, was not ſo much to rule or command, as to aſſiſt the L. Generall in Councell; whence *Polybius* commonly ioyneth theſe two together, πρεσβευτὰς καὶ συμβούλους, that is, *Legatos & Conſiliarios*, that the latter word might expound the former. *Lipſ. de mil. Rom. l. 2. dial.* 11. Moreouer, euery *Proconſul* and *Propretor*, had with them certaine Treaſurers, called *Quæſtores Prouinciales*. Theſe Prouinciall Treaſurers [a] were choſen by the *Romane* people commonly; namely, ſuch a number as the number of Prouinces did require. After the election, they betweene themſelues did caſt lottes who ſhould goe vnto the one, who vnto the other Prouinces: [b] ſometimes extraordinarily by vertue of ſpeciall Act or Decree, this or that ſpeciall man hath obtained this or that Prouince without any lottery. By the way we muſt note, that all Prouinciall *Quæſtors* could not be called *Prequæſtores*, as all Prouinciall *Conſuls*, and *Prætors*, were called *Proconſules*, and *Propretores*. [c] For theſe only were called *Proquæſtores*, which did ſucceed theſe Prouinciall *Quæſtors*, when they did either die in their Office, or depart out of the Province, no ſucceſſor being expected from *Rome*: at which times it was lawfull for the *Proconſul*, or *Propretor*, to chooſe his *Prequæſtor*. Moreouer, there were beſide theſe, *Legati & Quæſtores* [d] other Military Officers; ſuch as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferiour Officers, as their Secretaries, Bayliffs, Cryers, Seriants, and ſuch like.

Pomp. Læt. de mag. Rom.

y Sig. de iure Prou. l. 2. c. 2.

a Sig. de iure Prou. l. 2. c. 3.

b Sigon. lib.

c Roſin. ant. Rom. l. 7. c. 45

d Sig. de iure Prou. l. 2. c. 2.

Lib. 3. *Sect.* 3.

Of the Romane puniſhments.

Cap. 1.

Supplicia, Mulcta, Lex Ateria, Tarpeia. Ego ei vnum ouem mulctam dico. &c.

TOuching the military puniſhment, which belonged to military diſcipline it ſhall bee treated of in its proper place. Here only of the City diſcipline, and the vſuall puniſhments exerciſed therein, which we may diuide thus. Puniſhments publikely inflicted on malefactors, are either *Pecuniary mulcts*, or *Corporall puniſhments*; the *Pecuniary mulcts* were of two ſorts: either an appointed ſumme of money was required of the party guilty, and then it was called *Mulcta*: or his whole eſtate was ſeaſed on, and then it was termed a *Confiſcation* of his goods. The *Mulct* was twofold, the one termed *Mulcta ſuprema*, the other *Mulcta minima*. Of both theſe [a] *Gellius* writeth thus: *Suprema mulcta erat duarum ouium, & triginta boum, pro copia ſcilicet boum, & penuria ouium: ſed cùm eiuſmodi mulcta pecoris, armentiq; à magiſtratibus dicta erat, adigebantur boues oueſq; alias pretij parui, alias maioris, eaq; res faciebat inæqualem mulctæ punitionẽ. Idcirco poſtea lege*

[a] Gellius l. 11.

lege Ateria conſtituti ſunt in oues ſingulas æris deni, in boues æris centeni : Minima vero mulcta fuit ouis vnius. Moreouer as he obſerueth in the ſame place, whenſoeuer the Magiſtrate did ſet a Fine or Mulct vpon the offenders head, he vſed the word *Ouis* in the Maſculine gender: as, *Ego ei vnum ouem mulctam dico, &c.* The law which *Gellius* calleth *Ateriam legem:* [b] *Feſtus* calleth *Legem Tarpeiam,* becauſe *Aterius* enacted it, when he was Colleague or fellow-Conſul with *Tarpeius.* Likewiſe we may take notice of the clemency vſed in thoſe times. It was prouided by the law, that ſeeing there was greater plenty of Oxen then of Sheep, & to be fined an Oxe, was not ſo much as to be fined a Sheepe, therefore the Magiſtrate pronouncing the Fine, [c] *Bouem prius quàm Ouem nominaret, vt in notæ ſceret Romanis mitiores ſemper pœnas placuiſſe.*

b Feſtus in voce peculat:

c Plin. lib. 18. c. 3. It. Alex. ab Alex. lib. 3. cap. 5.

CAP. 2.

Capitis diminutio, maxima media, minima. Aqua, & Igni interdici. Proſcriptio, Lata fuga, Deportatio, προγεφύρωσις, Ærarij, In ærarios relati. Relegatio, Lanij cum tintinnabulis.

THE corporall puniſhments are either ſuch as were *Capitall,* depriuing a man of his life: or *Caſtigatory,* ſuch corrections as ſerued for the humbling and reforming of the offender, not for the deſtroying of him. *Capitall* puniſhments were ſometimes taken in a ciuill acception, for the loſſe of freedome, which the *Romanes* called, *Capitis diminutionem,* **Diſfranchiſing,** becauſe in euery **Free-man** thus diſfranchiſed, one head of the corporation was as it were cut off: ſometimes it is taken for the loſſe of ones life, and this they called, *Vltimum ſupplicium.* That diſfranchiſing called *Capitis diminutio,* was [d] threefold. *Maxima, Media, & Minima.* The leaſt degree was, when the *Cenſors* pulled a man from

d Roſin. antiq. Rom. lib. 9. c. 3.

an higher Tribe, downe to a lower and leſſe honourable, or when by any cenſure they diſabled a man from ſuffraging, or giuing his voyce in the publike aſſemblies; ſuch as were thus in the laſt maner puniſhed, were termed *Ærarij*, and *In ærarios relati*; [e] *quia omnia alia iura ciuium Romanorum præterquam tributi & æris conferendi amiſerunt.* This kinde of puniſhment, as it may ſeeme, was many times exerciſed for irreuerend geſture, or ſpeeches vſed by ſuch as was queſtioned by the *Cenſors*. Three ſeuerall examples are noted by [f] *Gellius*, the laſt is this. *P. Scipio Naſica*, and *M. Pompilius* being *Cenſors*, taking a view of the *Romane* Knights, obſerued one of them to haue a leane ſtarueling horſe, himſelfe being fat and in good plight: whereupon they demanded the reaſon why his horſe was ſo leane, himſelfe being ſo fat: his anſwere was, *Quoniam ego, inquit, me curo, equum Statius meus ſeruus.* *Diminutio media*, was an exilement out of the Citie, without the loſſe of ones freedome. [g] It was commonly ſet downe in this forme of words: *Tibi aqua & igni interdico.* And it ſeemeth by [h] *Cœlius Rhodiginus*, to be all one with that kinde of baniſhment, which the *Romanes* called *Proſcriptio*; though it cannot be denied, but that *Proſcriptus* ſometimes ſignifieth onely ſuch a one, whoſe goods are ſet at ſale to ſatisfie his Creditors, becauſe hee will not appeare in the Court; the forme thereof is thus. The Creditors hauing obtained leaue of the Lord chiefe Iuſtice to proceed in this manner, they committed the ordring of the ſale to one principall Creditor, and he was called ſimply *Magiſter*; and he in the name of all the reſt, ſolemnely proclaimed in the chiefe places of the City in forme as followeth. [i] *Ille debitor noſter in eiuſmodi cauſa eſt, vt bona eius diuendi debeant, nos creditores patrimonium eius diſtrahimus: quicunq; emere volet, adeſto.* But for the reconciling of both opinions, we may terme the firſt to be, *Proſcriptionem hominum*: the other *Proſcriptionem bonorum*: which diſtinction being not obſerued, breedeth a great confuſion in the Authous that treat of this puniſhment; and becauſe

e Sigon. de iure. Rom. l. 1. cap. 17.

f A Gell. noct. Attic. lib. 4. cap. vlt.

g Camerar. in orat. Cic. pro Muræn.

h Cœl. Rhod. lib. 15. c. 17.

i Roſin. ant. l. 9. c. 12.

becauſe both was performed by ſolemne and publike proclamations hence the name *Proſcriptio* agreed as well to the goods confiſcated, as to the perſons baniſhed: according to that, [k] *Quoniam eorũ nomina in publico ſcribebantur, hinc proſcribi dicebantur.* Hence the [l] *Grecians* vſe not only the word προγράφειν, but alſo σηλιτεύειν, to ſignifie the act of *Proſcription*; becauſe they wrought in a publike pillar the faults and offences of ſuch as were thus baniſhed. But to proceede without farther digreſſion, *Diminutio maxima* was the loſſe both of the city, and the freedome; and this I take to bee the ſame which in other termes was called *Lata fuga*, or *Deportatio*, namely, a perpetuall exilement: all ſtanding in oppoſition to that other kind of baniſhment, called *Relegatio*, which was the exilement onely for a ſeaſon, happily for fiue yeares, &c. ſee *C. Rhod. l.* 10. *c.* 5. though I denie not, but that *lata fuga* was ſo called, not onely in reſpect of the duration of time, it being a perpetuall baniſhment: but alſo in regard of the places ſo generally prohibited; [m] for he that was thus baniſhed, was tyed and limited to one peculiar country, all other places in generall being forbidden him. Thoſe puniſhments that depriued of life in ordinarie vſe, and of which there is moſt frequent mention in *Roman* Authors, are theſe which follow. *Furca, Crux, Carcer, Culeus, Eculeus, De rupe Tarpeia deiectio Scalæ, Gemoniæ, Tunica. Damnatio in gladium, in ludum, ad beſtias.* In generall we are to note, that the Execution was without the gates of the city, to prevent the noiſomnes which ſuch abundance of blood might occaſion; [n] for which reaſon the Executioner dwelt without the Citie. Likewiſe thoſe that were adiudged to death, when they went to the place of execution, a certaine little bell was tyed about them, that by the ſound thereof, the people might beware of touching the condemned perſon, becauſe the very touch of him was counted a kinde of pollution: this [o] *Turnebus* obſerveth out of *Zonaras*: and from hence the Executioners are called [p] *Lanij cum tintinnabulis.* And for this reaſon [q] it was, that a little bell

k Fr. Matur. in Philip. orat. 5.

l Suidas in voce σήλη.

m Tholoſan. ſyntag. iur. vniuerſ. lib. 31.

n Plaut. Caſ. 2. 6.

o Turn. adv. lib. 11. cap. 21

p Plaut. pœud. 1. 3.

q Roſin. ant. lib. 10. cap. 29

bell and a ſcourge was hanged vp in the hindmoſt part of the Chariot, wherein the Lord Generall did ride in his triumph, a publique officer which rode with him in the ſame Chariot, now and then plucking him behind, and bidding him looke backe, vſing this forme of words, [r] *Reſpice poſt te, hominem memento te*, that is; Sir, looke behind you, remember your ſelfe to be but a man. For the ſight of the ſcourge and bell ſerued to put him in minde, that notwithſtanding his preſent triumph and acclamations, his after-miſeries might bee ſuch, that he might be puniſhed not onely with whips, but euen with death it ſelfe.

r Tertul. Apolog. cap. 33.

CAP. 3.

Furca, Furcifer. Supplicium more maiorum, στρεβλα.

ANcient Authors which doe write of the *Romane furca*, doe rather mention it, then explaine it, but if we diligently obſerue what they ſpeake of it, wee ſhall finde the vſe thereof to haue beene threefold. The firſt ignominious, which [a] was when the maſter forced the ſeruant for ſmall offences *furcam, circa vrbem ferre*, to carry this *furca* vpon his ſhoulders about the Citie, confeſſing his fault and admoniſhing others to beware of the like offence, and [b] hence [illegible]n a ſeruant was afterward called *furcifer*, and here I thinke was vſe of thoſe *ſtimuli* or goades, whereof I ſhall ſpeake more in the chapter following; namely, that when the party thus to be puniſhed dragged backe, and ſhewed himſelfe vnwilling, then did the executioner pricke him forward with theſe kinde of goades. The ſecond ſort was penall, when the party having the *furca* on his necke, was led vp and downe the Cirque, or ſome publique place, and on the way to bee whipt, but not vnto death; [c] thus *C. Matienus damnatus ſub furca diu virgis cæſus erat, & ſeſtertio nummo venys.* He was after-

a Iſidor. orig. lib. 10.

b Plutarch in Cariol.

c Epit. Liuii dec. 6. lib. 5.

afterward sold, and therefore died not vnder the punishment. The third sort was penall too, but in an higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt vnder it vnto death; and this was by a peculiar name called[d] *supplicium more maiorum*. This yet differed from that beheading with an axe which was in vse among the *Romans*, and called by the *Grecians* πελεκισμὸς from πέλεκυς signifying an axe or hatchet; it differed I say from this, because howsoeuer there were in this σταυρῷ πρόσδεσις, a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former punishment, yet herein they differed, because in the former they were whipt vnto death, in the latter they were after their whipping beheaded with an axe, as appeareth by the [e] execution of *Antigonus* the King of the Iewes. But to proceede in the description of the *furca*, the forme thereof I take to be like the beame of a wayne, vnto which the yoakes are fastened; it resembleth a forke, and the *furca* is called, ξυλον διπλοῦν, δικροῦν, δίδυμον, *id est, lignum duplex, bicornutum, geminũ*, in English, a forked piece of timber; there is no such piece throughout the whole wayne, as the forme of waynes is in these daies, but onely the beame, thereof. [f] *Plutarch* treating of the *furca*, saith, that it is ξύλον ἁμάξης ὡ τὸν ῥυμὸν ὑπερείδουσι, that is, a piece of timber about the wagon or wayne, wherewith they vpheld the beame: and he addeth, that what the *Grecians* call ὑποστάτην & στήριγμα, that the *Romans* call *furca* now *Hesychius* describeth στήριγμα to be, τὸ δικροῦν ὃ ὑπερ ὑποτιθέασι τῷ τῆς ἁμάξης ζύγῳ, that is, the forked piece of timber, which they put vnder the yoake of the waine; correct *Plutarch* by *Aeschius*, and for τὸν ῥυμὸν, reade τὸ ζυγὸν, and you haue in both the description of the beame in the wayne. Some thinke, that *Plutarch* compareth the *furca* to a certaine forked piece of timber, wherewith the waine was vpheld whilest it was vnloaded: but how this can stand with *Hesychius* his description of στήριγμα, I am yet to learne; notwithstanding if we admit this interpretation, that which

d Sueton. in Ner. 49.

e Dio lib. 49.

f Plut. in Coriol.

which I would hence inferre, is rather confirmed, then any way weakened; namely, that the forme of the old *Romane furca* was forked; neither do there appeare any teſtimonies ſo evident to mee, as to perſwade, that among the ancient *Romanes* any other was in vſe. True it is, that in after Ages, the forme thereof was the very ſame with our gallowſes which are now in vſe; and this happely began, when the vſe of crucifying was interdicted, which interdiction we reade firſt to haue taken place in g *Conſtantines* time.

t Sozom. eccleſ. hiſt. lib. 1. cap. 8.

Cap. 4.

Crux. Seruile ſupplicium. Titulus.

Crucifixion hath been a puniſhment in ancient vſe among the *Romans*, it was abrogated by *Conſtantine*. It was a death that commonly ſeruants were ſentenced vnto, ſeldome times free-men; whence it is many times noted out by the name of *ſeruile ſupplicium* by *Tacitus*; yet h ſometimes free-men, though of the baſer ſort, and for notorious offences, were adiudged to this kind of death. Nay, a cleare example hereof we haue in that * Guardian which *Galba* crucified for poyſoning his Ward; for the Guardian calling for the benefit of the law, and avouching in his plea, *That he was a Roman Citizen*, *Galba*, as if hee would allay his puniſhment with ſome comfort and honour, commanded the Croſſe already made, to bee changed, and another to be reared farre higher then the ordinarie, and the ſame laid ouer with a white colour. Thoſe which were thus to be puniſhed, they bore their Croſſe vpon their ſhoulders to the place of execution. i *Malefici cùm ad ſupplicium educuntur, quiſque ſuam effert crucem.* k *Artemidorus* is as plaine: Ἔοικε γὰρ ἡ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων προσπήγνυσθαι πρότερον αὐτὸν βαστάζει; that is, The Croſſe is like vnto death, and he which was to be crucified, did firſt beare it. The party that ſuffered this kind of death, was firſt ſtripped

h Vid Lipſ. de cruce lib. 1. cap. 13.

* Suet. Galb. 6

i Plut. de ſera numinis vind.

k Vid. Lipſ. de cruce l. 2. c. 5.

ped of all his cloathes; for he suffered [l] naked: then was hee fastened vnto the Crosse, and that commonly with nailes; the Greeke word προσήλωσις, clearely euinceth as much, wee may render it *Clauifixio*. Now that the equity of the proceeding might clearely appeare to the people, the cause of his punishment was written in capitall letters; hence [m] *Dio* speaketh of a seruant dragd to the crosse, μετὰ γραμμάτων τὴν αἰτίαν τῆς ἀναβάσεως δηλούντων, that is, with letters declaring the cause of his death. This inscription was called αἰτία, *Mat.* 27. 37. It was also called τίτλος, *Ioan.* 19. 19. from the Latine word *titulus* vsed in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας. *Marc.* 15. 26. or simply ἐπιγραφή. *Luc.* 23. 38. [n] *Tertullian* and [o] *Suetonius* calleth it *elogium*. The like kind of publishing the cause, either by an inscription, or by the voyce of a common Cryer, was not vnusuall in other capitall punishments; as *Attalus* the Martyr was led about the Amphitheatre: πίναξ ἦν τὸν προάγοντος, ἐν ᾧ ἐγέγραπτο Ῥωμαϊστί, Οὗτος ἐστὶν Ἄτταλος ὁ χριστιανός. i. A table being carried before, in which it was written in Latin, *This is Attalus the Christian*. That of [q] *Suetonius* his is not much vnlike: *Patrem familias detractum è spectaculis in arenam, canibus obiecit, cum hoc titulo: Impiè locutus Parmularius*. What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the chapter of **Fencers**. Moreover, such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearely evinceth as much; the parts whereof are two: first, [r] *Verbera intra aut extra pomarium*: secondly, *Arbore infelici suspendito*. This whipping was sometimes *sub furca*, for this [s] *Valerius* is plaine; *Cùm seruum suum verberibus multatum sub furca ad supplicium egisset*; sometimes *ad columnam*. *Artemidorus* is cleare in this, προσδεθεὶς κίονι, πολλὰς ἔλαβε πληγάς; that is, being tyed to the pillar, hee receiued many stripes. Happely [t] *Plautus* alludeth to the same:

——— *Abducite hunc*
Intrò atque adstringite ad columnam fortiter.

l Artemidor. lib. 2. 58.
m Vid. Lipsi. de cruce lib. 1. cap. 11.
n Apol. cap. 2.
o Sueton. in Calig.
p Euseb. eccl. hist. lib. 5. c. 1.
q Sueton. Domit. cap. 10.
r Liu. lib. 1.
s Valer. Max. lib. 1. cap. 7.
t Plaut. Bacch.

Yea, the ancient [t] *Fathers* say, that our blessed *Saviour* was thus whipt: touching the place or manner, the Scripture is silent, onely that hee was whipt it testifieth, and that with scourges: Τὸν δὲ Ἰησοῦν φραγελλώσας, παρέδωκεν ἵνα σταυρωθῇ. *Mat.* 27.26. This forewhipping I take to be a matter vnquestionable, but that they should be whipt on the way towards the place of execution, I much doubt; much more that they should bee goaded on the way with pricks and goades by the Executioner. That there was [u] *stimuleum supplicium*, a kind of punishment with pricks and goades, is evident: and hence commeth that phrase, *Stimulo fodere*; and hence that other phrase of **kicking against the pricks**. Parallel to which is that of *Plaut. Truc.* 4.2. *Stimulos pugnis cadere*. But this kinde of punishment I take to haue been exercised only by Masters towards evill seruants; and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled, was termed * *Carnificinum cribrum*, because he had his backe so boared with those pricking instruments, that it looked like a sciue full of holes. Otherwise, if we vnderstand it of a punishment imposed by publique authority, we may say, that thereby is denoted a certaine punishment, exercised towards theeues in time of their examination, that by the pricking and goading of them, the truth might be confessed; * for to that end theeues were thus tortured, and thence were they called *Centrones*, from κέντρον, *Stimulus*. Lastly, we must remember, that these three words, *Furca*, *Crux*, and *Patibulum*, are many times vsed promiscuously, signifying the whole crosse, on which malefactors suffered: but in strict propriety of speech, *Furca* signifieth that forked instrument, of which we treated in the former chapter: *Crux*, that erect part of the crosse standing vpright: and *Patibulum*, the thwart piece of timber vpon the top of the crosse: yet sometimes also *Patibulum* is taken for the *Roman Furca*, whence *Patibulatus* and *Furcifer* are vsed as words equiualent, and in both senses it may

[t] Prudentius Hieron. Beda Vid. Lips. de cruce l. 2. c. 4.

[u] Plaut. Mil. 2.6.

* Plaut. Most. 1.1.

* Cæl. Rhodigin. antiq. lib. 10. cap. 5.

may borrow its name from *Pateo*, to lie open; becauſe as the malefactors hands were ſpread abroad, being faſtened to the thwart piece of timber vpon the top of the croſſe: ſo were they likewiſe ſpread abroad vnder the *Furca*, his two hands being tyed to the two forked ends thereof.

CAP. 5.

Carcer, Ergaſtulum Tullianum, Robur. Mala manſio, Nervus, Collumbar, Numella, Codex.

HOwſoeuer *carcer* and *ergaſtulum* are vſed promiſcuouſly by moderne Writers, yet if we diligently enquire vnto each words origination, and how they haue been vſed by more ancient Authors, we ſhall finde them thus differenced. *Ergaſtulum* was a priſon much reſembling our houſe of **Correction**, into which ſervants onely were caſt: *Carcer* a more publique priſon, vnto which men of better ranke and faſhion vpon iuſt occaſion were committed: ſecondly, the power of ſentencing any ſervant to the *Ergaſtulum*, was proper and peculiar to the Maſter of the ſervant, without approbation from publique authoritie: but the power of the committing to the priſon, called *Carcer*, was onely in the publique Magiſtrate: thirdly, *Ergaſtulum* tooke away onely the libertie and pleaſure of life: *Carcer* life it ſelfe. The word *Carcer* hath his name *à coercendo*, from reſtraining men of their libertie. [a] It had two principall parts, the one called *Tullianum*; the other *Robur*; beſides many other roomes wherein men were kept cloſe priſoners, theſe two places were aſſigned for execution. In that which they called the *Tullianum* (wee may Engliſh it their **Dungeon**) they ſtrangled malefactors. [b] It had its name from *Seruius Tullius* a *Roman* King, the firſt inventor and author thereof. Of this *Saluſt* writeth, *Eſt locus in carcere quod Tullianum appellatur vbi paulatim*

[a] Sigon. de Iudic. lib. 3 c. 17.

[b] Sigon. ibid.

tim aſcenderis ad læuam, circiter duodecim pedes humi depreſſus: eum muniunt vndique parietes, atque inſuper camera lapideis fornicibus innicta, ſed inculta tenebris, odore fœda, atque terribilis eius facies eſt. In that other place which they called commonly *Robur*, ſometimes [c] *Robuſtus Codex*, ſometimes [d] *cuſtodia lignea*, ſometimes [e] *Italum robur* (our Engliſh phraſe **ſtrong hold** fitly anſwereth it) they broke maleſactors necks by a kind of precipitation or tumbling them headlong [f] from a certaine ſtocke of a tree faſtened there in the earth; vnto this *Tully* alludeth: *Quæro fregeris ne in carcere ceruices illi ipſi Vettio.* But more expreſly *Plautus*. [g] *At ego faciam vos ambos in robuſto carcere vt pereatis*; thoſe that had the chiefe ouerſight in ſuch executions, were called *Triumuiri capitales*, that is, **high Sheriffes.** The whole proceeding is ſet downe by *Valerius*. [h] *Mulierem damnatam Prætor Triumviro necandam in carcere tradidit, quam receptam is qui cuſtodiæ præerat, miſericordia motus non protinus ſtrangulauit; aditum etiam filiæ dedit, ſed diligenter excuſſæ, ne quid cibi inferret, exiſtimans futurum, vt inedia conſumeretur; cùm verò animaduertiſſet, filiam matrem lactis ſui præſidio ſuſtentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad conſilium iudicum pertulit, & remiſſionem mulieri impetrauit.* It is much controverſed among interpreters, what that kind of puniſhment was, which they termed *Malam manſionem*, wee may Engliſh it **little eaſe.** Some vnderſtand hereby a certaine deep dungeon, made in the forme of a pit or well, called therfore in Latine *puteus*: but this, as it ſeemeth by that of *Plautus*, was a puniſhment proper and peculiar to theeviſh Cookes. [i] *Coqui abſtulerunt, compre'endite, vincite, verbera'e, in puteum condite.* Others vnderſtand hereby a cloſe priſon, which becauſe of its ſtraitnes and cloſenes, they called *arcam*, a cheſt: the vſe of this priſon, was for the ſafe keeping of ſuch, who were afterward to be examined of farther matters; though ſometimes other offenders were caſt into the ſame. Of theſe priſons *Tully* ſpeaketh; [k] *Subito arrepti in quæſtionem, tamen ſeparantur à*

ceteris,

c Plaut. pæn. 5.3.
d Plaut. pæn. 5.6.
e Hor. lib. 2. od. 13.
f Turneb. adu. lib. 23. cap. 21
g Plaut. in Curc. act. 5. ſc. 5.
h Valer. lib. 5. cap. 4.
i Plaut. Aulul. 2. 5.
k Cic. pro Milone.

ceteris, & in arcas conijciuntur, ne quis cum his colloqui poſſit. Another kinde of priſon there was called *Sextritium*, thus it is commonly rendred in Latine, but the Greeke word is σεστέρτιον, and accordingly [a] *Turnebus* renders it *Seſtertium*, being of opinion, that it was ſo called from the quantity of ground it contained, namely, two Acres and halfe. *C. Rhodiginus* thinketh that *Speliarium*, and *Sextritium*, were not places vnlike, but herein not he alone, but diuers others haue bin deceiued: for *Sextritium*, is apparently a place of [b] execution, where thoſe were executed whom the *Romane* Emperours adiudged to death; now whether that *Speliariũ* were a place of puniſhment I much doubt. What in Latine we call *Speliarium*, that the Greekes termed ἀποδυτήριον, both doe ſignifie primarily little Cels or Chambers neere adioyning to the Bathes, where ſuch as waſhed themſelues laid vp their clothes. In a borrowed ſenſe, both are vſed to ſignifie Chambers and Celles, adioyning neere vnto the Amphitheatre, or Fencing place, wherein the Fencers did put vp their cloathes in time of fight, and becauſe ſuch as were wounded in fight, were carried into thoſe Chambers, where they languiſhing with much paine, at laſt notwithſtanding expired for the moſt part, and that not without much torturing of the Chirurgion, hence ſuch a **Spittle-houſe** is alſo called, *Spoliarium*. Thus much *Seneca* ſeemeth to imtimate. [c] *Numquid aliquem tam cupidum vitæ putas, vt ſingulari in ſpoliario quàm, in arena malit?* Whereby it appeareth, that *Spoliarium*, was not a priſon vnto which malefactors were adiudged, but rather as I ſaid a kinde of **Spittle-houſe**. Other kinde of puniſhments there were of an neere likeneſſe with impriſonments, and caſting into the Pillory, laying one by the heeles, &c. Of theſe little is ſpoken more then the very names; of this ſort, thoſe that doe moſt commonly occurre in Anthors, are theſe. *Nervus, Collumbar, Numella, Codex, Nervus*, is generall thought to reſemble our **Stocks**; [l] ſome take it to bee made of wood, other of yron, [m] *Nervum appellamus ferreum vinculum, quo pedes impediuntur*

[a] Turn. adu. l. 3. c. 18.

[b] Plutarch. in Galba.

[c] Sen. ep. 94. De ſpoliario. Vid. Lipſ. Sat. 1. 18.

[l] Vid. Taubman. in Plaut. Aulul. 4. 10.

[m] Feſtus Vid. Lam. in Plaut. Aulul. 4. 10.

pediuntur : quanquam Plautus eo etiam vinciri ceruices ait. Two of the laſt ſeeme to haue ſome reſemblance with our Pillory. *Collumbar* had its name from *Collum*, becauſe the necke was chiefly pained in this kinde of puniſhment. *Nu-*
n Turneb. ad-verſ. l. 23. c. 21 *mella* was alſo a kinde of [illegible], being ſo called, *quaſi* [n] *Nu-cella, quòd qui eo vinculo conſtricti erant, nuere demiſſoq; capite eſſe cogebantur. Codex*, was a certaine blocke or Clogge, ſo tied vnto the malefactors, that they vſed it as a ſtoole to ſit on; the vſe of this may ſeeme to haue beene onely in priuate houſes, thereby to keepe euill ſeruants the cloſer to their worke; of this *Iuuenal* ſpeaketh, *Sat.* 2.

Horrida quale facit reſidens in codice pellex.

o Turneb. Ib. [o] *Turnebus* deſcribeth it thus. *Codex eſt ligneus ſtipes, quem alligati ſerui, qui deliquerant trahebant, cuiq; inſidebant vincti.*

Cap. 6.

Culeus.

THE crime which in Latine we call *Parricidium*, is murder practiſed by father or mother towards the children, or by the children towards either of the parents : It had in old times a larger acception, ſignifying any murder betweene man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his firſt and proper ſignification, denoted a fact ſo vnnaturall, that neither [y] *Solon* nor
y Cic. pro Sext. Roſcio. *Romulus* would determine any puniſhment againſt ſuch offenders, becauſe they thought none ſo wicked as to commit it; and the prohibition it ſelfe might proue a kinde of irritation, to prouoke ſome to the commiſſion of that crime, which otherwiſe would neuer haue entered into their hearts. But the wickedneſſe of the after-times, enforced Law-giuers to inuent a ſharpe puniſhment againſt ſuch vnnaturall offences. The puniſhment decreed againſt Parrici-
z Senec. lib. 5. controu. 4. in fine. des in [z] *Senecaes* age, was, that ſuch malefactors ſhould bee

ſowed

ſowed vp in a leatheine ſacke together with Serpents, and ſo caſt into the Sea; afterward there were ſowed vp in the ſame ſacke, an Ape, and a Cocke, and at laſt a Dogge. Whence *Iuuenal, Satyr.* 8.

Cuius ſupplicio non debuit vna parari
Simia, nec ſerpens vnus, nec culeus vnus.

[a] *Modeſtus* deſcribeth the manner thereof thus. The Parricide being firſt whipt with rods vntill the blood came, then was he ſowed vp in this ſacke called *Culeus*, together with a Dog, a Cocke, a Serpent, and an Ape. [b] They would not caſt him naked into the Sea, vnleſſe the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

a Digeſt. lib. 48. ad legem Pomp. de paric. vid. Cœl. Rhod. l. 11. c. 21.

b Cic. pro Sext. Roſc.

Cap. 7.

Eculeus. Laminæ. Vngulæ. Fidiculæ. σχοινισμὸς.

Eculeus, had its denomination from *Equus, quaſi Equleus*, as may bee collected from that deſcription which [c] *Turnebus* giueth. But not ſo much from the poſiture or ſituation of the offenders body on the engine as *Turnebus* would haue it, for he in no wiſe reſembled a man on horſe-backe; but rather from the hoyſing or horſing vp of the party faſtned with ropes vnto the *Eculeus*, ſo that his hands being tied faſt at the vpper part of the engine, and his feete at the neather part, he was hoyſed vp into the ayre, like vnto one faſtned on a croſſe. The forme of the *Eculeus* I conceiue thus; it was not one entire ſtake, but rather two long pieces of timber ioyned together in forme of a ſtake, ioyned together I ſay, by the meanes of a vice or ſcrue; and the reaſon hereof was, that by the helpe of this ſcrue, the vpper part of the engine might be lifted vp, to the racking and torturing of the malefactor, or let downe to the eaſing and remitting of his paines, as ſhould ſeeme good to the Executioner, and other Officers, who

c Turneb. aduerſ. l. 4. c. 3.

who now and then would grant ſome remiſſion and reſpite in hope of a confeſſion. For in the firſt inſtitution, the maine end of this torture, was to worke out the knowledge of the truth. Neither did they alone racke the parties ioynts in this kinde of puniſhment, but to enforce him to a confeſſion by an augmentation of his paine, they did often with hot plates, & yron ſpinſors, burne and teare his fleſh from his ſides, and all this we ſhall finde warranted by [d] *Sigonius*, whoſe words I haue written downe at large. *Ecculeus cataſta fuit ligned, cochleata, ad intendendū ac remittendū apta, atq; ad torquendos homines, vt facti veritas eliceretur inſtituta. Tormenti verò genus erat huiuſmodi, vbi cataſtæ huic brachia, pedeſq; eius, qui torquendus erat, neruis quibuſdam, quæ fidiculæ dicebantur alligauerant, tum cataſta intenta atq; in altum erecta, vt ex eo quaſi ex cruce quadam miſer ille penderet, primùm compagem ipſam oſſium illius diuellebant, de inde candentibus eiuſdem corpori laminis admotis, atq; biſulcis vngulis ferreis lateribus laniatis doloris acerbitatem augebant.* And thus we ſee what the vſe of thoſe *Lamine* and *Vngulæ* were, namely, that they were not ſeuerall torments of themſelues, but adiuncts to this, to encreaſe the paine. The *Eculeus* was ſometimes called [e] *lignum tortorium*: ſometimes [f] *ſtipes noxialis*. The torturing engine called *Fidiculæ*, was not much vnlike: *Fides* ſignifieth the ſtring of any Muſicall inſtrument, and the engine had its name from the ſtrings and cordes wherewith men were tortured vpon it. Of this [g] *Turnebus* writeth; *Fidiculæ quæ in tormentis numerantur, mihi videntur laſciuia quadam ioci nomen inueniſſe, quòd vt infidibus nerui item quoq; vt nervi hinc & inde: multis funibus homines diſtendebantur.* The torment σχοινισμὸς vſed by the *Grecians*, was either this ſame or verie like.

d Sigon. de Iud. lib. 3. c. 18

e Sozom. hiſt. Eccleſ. lib. 5.

f Prudent. in hymno Vincent. Martyr.

g Turneb. adverſ. l. 4. c. 3.

CAP.

Cap. 8.

De rupe Tarpeia deiectio. De lapide empti. A furcæ redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, in Ludum, ad bestias.

MAlefactors for notorious offences were tumbled downe headlong from a certaine rocke in the *Tarpeian* Mount: This kinde of punishment was called either simply, *Deiectio è saxo*; or *Deiectio è Tarpeia rupe*. In some cases notwithstanding, by the intercession of friends, or some other meanes, pardons were sometimes obtained for the condemned persons, whereby they were freed from death, howsoeuer the disgrace and infamy cleaued euer after vnto them, and therefore they were termed, *de lapide empti*: which phrase [h] *Cœlius Rhodiginus* hath parallel'd with that, *à furca redempti*, that is, *saued from the gallowes*. In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*: certaine stayres whether condemned persons were dragged, and so cast headlong into the riuer *Tiber*. *Cœlius Rhodiginus* seemeth to be of another opinion: [i] who describing this punishment, saith, that an hooke was thrust into the malefactors throat, and so he haled by the Executioner vnto these Stayres, where hauing his thighes broken, he was burnt. Furthermore hee addeth, that they were called, *Scalæ Gemoniæ*, or *gradus Gemonij*, because, as some are of opinion, the first that suffered this kinde of punishment, his name was *Gemonius*: or as others would haue it, because it was *locus gemitus, & calamitatum*. If we admit that malefactors were here burnt, then may we thinke this punishment *ad Scalas Gemonias*, to be the same, which sometimes was called *Tunica*. The reason of which name was, because persons thus to bee burned, were clad with a coat dawbed in the inside with pitch and brim-

h Cœl. Rhod. ant. l. 25. c. 22.

i Cœl. Rhod. lib. 10. c. 5.

stone. Thence is that of [k] *Seneca, Cogita illam tunicam alimentis ignium & illitam & intextam.* This giueth light to that of *Iuuenal. Sat.* 8. —— *Tunica punire moleſta.*

[l] *Tertullian* also mentioneth it in this sense. To these may bee added two other punishments vsually inflicted vpon fugitiue seruants, but yet not so restrained vnto them, as that they were not sometimes extended to other malefactors. The first is, *Damnatio in gladium.* A condemning one into a Fence-schoole, there to be trained vp in the Art of Fencing, vntill some publike prizes were plaid, at what time such a condemned person was to fight for his life. [m] *Capitolinus* calleth it, *Ad gladij ludum deputationem.* But *Vlpian*, as [n] *Lipsius* elsewhere obserueth, differenceth these two phrases thus. He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compasse of an yeere: But hee that was, *Damnatus in ludum*, had not death so peremtorily sentenced vpon him, if he scaped the danger of those publike prizes, and alwaies got the vpper hand of his aduersaries, at three yeeres end, he receiued the *Rudem*, or wand, which was a token of discharge from those bloody combates: yea at fiue yeeres end, he receiued the *Pileum*, or cap, which was a token of his enfranchisement or freedome in the Citie. The second sort was, *Damnatio ad bestias.* A condemning of a man to fight for his life with beasts; as with Beares, Leopards, Lyons, &c. The persons thus condemned were termed [o] *Bestiarij.* A memorable example thereof we haue in a certaine *Romane* seruant called *Androclus*, [p] who hauing runne from his Master, liued in a wildernesse, and whilst he rested himselfe in a Denne, there came a fierce Lyon vnto him, moaning and grieuing, because of a stumpe of a tree which stucke fast in his foot; *Androclus* at first beganne to be affrighted, but the Lyon comming neerer & neerer vnto him, and laying his foot on the mans lap, intimated his desire of helpe from him, which when the man perceiued, he plucked out the stumpe, and gaue him what ease hee could. Afterward this fugitiue being

k Sen. ep. 14.

l Tertul. ad Martyr.

m Vid. Lipſ. Satur. l. 2. c. 3.

n Lipſ. Satur. l. 2. c. 23.

o Alex. ab Alex. l. 3. c. 5.

p A. Gel. l. 5. cap. 14.

being apprehended and adiudged to this puniſhment, it happened that this very Lyon was brought into the ſhew-place, for *Androclus* to fight with, where inſteed of a fierce on-ſet, the Lyon vſed a tame & familiar fawning on him, whereupon the ſpectators admired, and vnderſtanding the former paſſages betweene *Androctus* and the Lyon, they releaſed the ſeruant, & freed him from his puniſhment. Where we muſt note, that this pardon was extraordinary, [q] for vſually if any ſo condemned happened to ouercome a beaſt or two, yet was he not thereby diſcharged, but was to encounter with others vntill he were killed. Yea, it was very ſeldome, that the man could preuaile againſt the beaſt: on the contrary, one Lyon hath preuailed againſt two hundred men; according to that, [r] *Præclara ædilitas, vnus Leo ducenti beſtiarij.* By which wee ſee, many men one after another, did thus fight with beaſts at the ſame meeting: yea the [ſ] *Grecians* called ſuch as ſucceeded the firſt combatants ἐπάρους. The Apoſtle S. *Paul* calleth them ἐσχάτους, becauſe they were reſerued vntill the laſt. [u] *Tertull.* readeth that place in this ſenſe, and the words themſelues enforce as much, for what ſhall we vnderſtand by θέατρον ἐγκαινίθημεν, but the very ſpectacle to ſhew it ſelfe, and what by ἀπόδειξιν, which ſignifieth properly *Oſtendit*, but alluſion to him who was the chiefe Author & exhibiter of theſe bloody ſpectacles vnto the people. * *Lipſius* hath parallel'd that phraſe of *Tully*, *Oſtendere munus*, with that of *Suetonius*, *proponere munus*; both ſignifying the ſetting forth or beſtowing the ſight of ſuch maſteries, and fightings. And that it was no vnuſuall kinde of Martyrdome in times of the primitiue Church, thus to expoſe holy men to the fury and rage of wild beaſts, appeareth by the example of *Ignatius*, who reioyced to be growne betweene the teeth of wilde beaſts, that hee might be found pure bread. Whoſe words were, [x] *Frumentum ſum Chriſti, & per dentes beſtiarum molor, vt mundus panis Dei inueniar*: yea the word θηριομάχους, *mortis addictos*, helpeth this interpretation: the word intimateth, that there

q H. Salmuth. in Pancirol. de vet. r. ludis.

r Cic. in orat. pro Seſtio.

ſ Suid. in voce Ἐφεδρος.

t 1. Cor. 4. 9.

u Tertul. lib. de pudicit.

* Lipſ. Satur. lib. 2. c. 18.

x Iren. aduerſ. hæreſ. l. 5. c. 28. It. Euſeb. hiſt. Eccl. l. 3. c. 33.

was a ſure death remained for them alſo, though the laſt, the cuſtome being in the morning to commit men with beaſts, but thoſe ἰσχαῖοι which remained till noone-tide, and were therefore called y *Meridiani*, were committed each againſt other, and that without any defenſiue weapons, with ſwords in one hand cutting, and with the other hand being emptie, graſping and tearing each others fleſh, ſo that z *Seneca* ſpeaking of this, comparing it with that former fighting with beaſts, ſaith: *Quicquid ante pugnatum eſt miſericordia fuit.*

y Suet. Claud. cap. 34.

z Senec. ep. 7.

Cap. 9.

Ergaſtulum. Ergaſtula inſcripta. Piſtrinum. Damnati in Antliam. Metallum. Inſcripti. Stigmatici. Literati. Virgæ. Flagella. Talio.

THE ſtate and condition of ſeruants was various and different amongſt the *Romanes* in old time, but of all they were moſt miſerable who liued in priſon. Whence thoſe that were ordinarily imployed in theſe priſon-ſeruices, they were either ſuch ſeruants as were bought for that purpoſe; or ſuch as for notorious crimes were adiudged thereunto in way of puniſhment, whence the word *Ergaſtulum* is iuſtly deriued from the Greek Ἐργάζομαι, becauſe it is οἶκος ἐν ᾧ δεδεμένοι ἐργάζονται: *locus in quo vincti operantur.* For euen in ỹ day time when then they were ſet forth to worke, they had ſhackels and bolts about their legs to preuent their eſcapes, or running away, though not ſo bigge as thoſe into which they were caſt at night, when they returned into priſon. Their fetters or bolts are oftentimes in ancient writers (peradnenture from the forme of their linkes) termed *Annuli*, & themſelues ſaid to haue *pedes Annulatos*. They had alſo their foreheads marked or burned with ſome letters of infamy, which is the reaſon of *Iuuenals* Epitheton. *Inſcripta ergaſtula.*

Quem

Quem mire adficiunt inscripta ergastula. The labours in which they were imploied, were somtimes digging, deluing, & tilling the groũd: somtimes digging of quarry pits, somtimes grinding with an handmill, somtimes drawing water: this latter kind of punishment in [m] *Suetonius* his phrase is, *In Antliam damnari.* Those Criticks who for the word *Antlia*, do substitute *Anticyra*, or *Audia*, or such like names of Ilands, do vtterly faile of the Authors scope and drift; for the punishmẽt which *Suetonius* speaketh of, is some strange or vnvsuall punishment: now seeing that Senatours themselues were often exiled, it could not seeme strange that *Roman* Knights should be banished into forreigne lands. But this was a matter vnvsuall, and vnheard of, that a *Romane* Knight should be imployed in such drudgeries. Againe, the word *Antlia* fitly denoteth such a kind of labour, whether we respect its Ethymology, ἀπὸ τῆ ἀντλεῖν, or its signification in Latine Authors, it beeing vsed by them to signifie a great bucket, or water-scoope to draw vp water. Thus *Martial.*

Curta laboratas antlia tollit aquas.

The handmill is often expressed by the latine word *pistrinum*, a word frequent in Comicall Authors. It much resembled our **Bride-well**, or place of correction, being called *pistrinum à pinsendo*, from pounding. For before the vse of milles was knowne, the *Romanes* did pound their corne in a great morter, calling the place where they pounded it *pistrinũ*: whereupon our handmill hath retained the same name to this day. And because of the great paines that men did suffer in pounding, as likewise the strict discipline vsed towards seruants thus punished (for [n] their necke was thrust into a certaine wooden engine, called *furcifer*, made for the purpose, least happely in time of grinding they might eate of the meale:) hence grew a custome among them, that when a seruant had offended his master, he would menace him in this manner. *In pistrinum te dedam.* I will cast thee into **Bride-well**. The punishment *Metallũ* was not much vnlike the digging in Met-

m Suet. Tiber cap. 51.

n Turn. adu. lib. 4. cap. 13.

tall-miner, and working in Metall-houſen, appeareth not only to haue been a baſe and ſervill, but alſo very laborious and painefull worke; whence it was eſteemed a grievous puniſhment to bee adiudged to Metall-workes, or caſt into a Metall-houſe. And either for the encreaſe of ſuch mens paines, or for to keep them from eſcapes, they were enforced to worke with their fetters and gyues about them, as is implyed by *Vlpian*,[o] who makes the difference betweene theſe two phraſes: *Damnari in metallum*, and *Damnari in opus metalli*, to be thus; that the firſt ſort did weare heavier and greater fetters then the laſt. How true the difference is, I leaue it to the enquiry of others, but that it was a great and infamous puniſhment [p] *Tertullian* witneſſeth, in that ſpeech of his againſt the Heathen people; *De veſtris ſemper aſtnat carcer, de veſtris ſemper metalla ſuſpirant.* Sometimes there was onely ignominy and diſgrace intended in their puniſhments, of which ſort was the bearing vp and downe the *Roman Furca* in the Market place, or elſewhere in publique view, whereof I haue ſpoken in the chapter *Furca*: likewiſe, a branding of the Malefactor with ſome infamous letter in his forehead or hand, or ſome other part of the body. Whence [q] *Pliny* calleth ſuch ſervants *Inſcriptos*. Generally they are called *Stigmatici*, from στίζω, which ſignifieth to brand with marks: as *Nebulo ſtigmaticus*, A Rogue burnt in the hand, or any way marked: ſometimes ſuch are called *Literati*. The *Athenians* being enemies to the *Samij*, as often as they tooke them captiues, they did vſe thus to burne them for Rogues, which occaſioned that proverbiall ſcomme; [r] *Samijs neminem eſſe literatiorem.*

Sometimes beſides the diſgrace there was alſo toyleſome paines, as appeared by their *Ergaſtula*; & ſometimes to their paines ſtripes added: though I deny not, but that many times, correction with ſtripes was a preparation for death it ſelfe. This correction by ſtripes was twofold, either it was *Verberatio*, or *Flagellatio*: the firſt was with rodds called *Virgæ*; the other with ſcourges, called *Flagella*. That there was a diffe-

o Vid. Cæl. Rhodig. li. 10. cap. 5.

p Tertul. apolog. cap. 44.

q Plin. lib. 18. cap. 3.

r Cæl. Rhod. lib. 7. cap. 31.

a difference betweene *Virgæ* and *Flagella*, is plaine by *Tully*, where by way of Ironie he saith: *Porcia lex virgas ab omnium ciuium corpore amouit; hic misericors flagella retulit.* Both of them were counted servile, so that Freemen were ordinarily exempted from them, as appeareth [m],

m Ter. Adelg. Act. 2. scen. 1.

——*Ad necem operiere loris. Sanne loris liber?*

Horace also intimating the seruill condition of *Mena*, saith:

n *Sectus flagellis hic triumviralibus.* n Epod. od. 4.

They are called *Flagella Triumuiralia*, from those *Triumuiri*, whom formerly I translated Sheriffes, because to them belonged the ouersight of this punishment. *Eustathius* calleth them ἀστραγαλωτὰς μάστιγας, *id est*, *Flagra talaria, seu taxillata*, because to augment the paines, they did vsually in these scourges tye certaine huckle-bones, or plummets of lead, at the end of the whip-coards, or thongs, and such scourges they termed *scorpiones*. The crueltie of these scourges was such, that they many times died vnder them. Thus haue we generally and briefly touched the more vsuall punishments. But sometimes wrongs done betweene party and party, were punished with a retaliation in the same kind: according to that; *A tooth for a tooth, and an eye for an eye*. And this kind of punishment was called *Talio*. Yet we are to know, that a simple retaliation, such as is termed *Talio Pythagorica*, was not alwaies exacted; but somtimes satisfaction might be wrought by a commutation of the punishment. [o] *Rebus habuit facultatem patiscendi, & non necesse habuit pati talionem, nisi eum elegisset.* It were endlesse to speake of all the punishments, and happely not worth the labour, their very names being sufficient comments to explaine them: as, *Effossio oculorum*, *Amputatio manuum*, *crurisfragium*, *Talisfragium*, and such like.

Tholosan. *Synt iur. vniuers.* cap. 11. lib. 32.

o A. Gell. li. 11. cap. 1.

Of the Romane Lawes.

Cap. 1.

De Legibus.

HAuing ſpoken of the Ciuill Magiſtrates, and puniſhments, wee will now alſo deſcend vnto the Ciuill Law: where firſt wee will note among other differences betweene *Ius* and *Lex* principally theſe. Firſt, *Lex* ſignifieth onely the Law, but [a] *Ius* ſignifieth alſo that place, whereſoeuer the Law or Iuſtice was adminiſtred; not onely if it were adminiſtred out of the Tribunall in the *Comitio*, or great Hall of Iuſtice, which was tearmed by the Lawyers, *Agere pro Tribunali*: but alſo if it were adminiſtred in a priuate houſe, or in ones iourney, ſo that it were by a lawfull Magiſtrate, and out of the Curule Chaire; and this was tearmed by the Lawyers, *Agere de Plano*: and hence is it, that *In ius vocare* ſignifieth to cite one into the Court. Secondly, *Lex* ſignifieth onely the written Law, but *Ius* ſignifieth equitie; ſo that [b] *Ius permaneat ſemper, nec vnquam mutetur*: *Lex verò ſcripta ſæpiùs*. Notwithſtanding, theſe two words are vſed promiſcuouſly one for the other; and therefore leauing all curious differences betweene thoſe words (whether the

[a] Sig. de iud. lib. 1. cap. 7.

[b] Fr. Syly. in orat. pro Mil.

Romane

Romane lawes were truly *Iura* or *Leges*) thus much we may obſerue, that the lawes vſed among them were of three ſorts; either they were ſuch as were made by ſeverall *Romane* Kings, and afterward collected and digeſted into a method by *Papirius*, [c] from whence it was called *Ius Papirianum*: or they were ſuch as the *Decemviri* brought from *Athens*, and were called *Leges 12 tabularum*: or laſtly, they were ſuch as the *Conſuls*, the *Tribuni Plebis*, and ſuch Magiſtrates did preferre, whence euery ſeverall law bore the name of him or them that preferred it. My purpoſe is to explaine onely this latter ſort, and that not all of them, but ſuch alone as I haue obſerved in *Tully*, and that chiefly in his orations. My proceeding ſhall be firſt to ſhew the divers kinds of iudgements; and then to deſcend vnto the lawes themſelues, beginning with thoſe which ſhall concerne the *Romane* Religion, and then proceeding to the others, which concerne the commonwealth.

c Fr. Sylu. in epiſt. virorum illuſt. l. 5. ep. 11

Cap. 2.

De Iure publico & priuato.

THE Caſes to bee decided by the law, were either publike or private; and accordingly were the iudgements, [d] *vel priuata, in quibus ius ſuum priuatus quiſque perſequebatur: vel publica, in quibus iniuria quæ reipub. facta erat vindicabatur.* The private (as wee obſerued before) belonged vnto the *Prætori vrbano & peregrino*, that is, the L. Chiefe Iuſtices, who did either giue iudgement themſelues, and then were they ſaid *Iudicare*; or they did appoint others to ſit in iudgement, and [e] then were they ſaid *Iudicium dare*: in the abſence of the *Prætors*, there were ten, called, *Decemviri Stlitibus iudicandis, id eſt*, [f] *Super lites iudicandas*, who in the ſame manner, as the *Prætor*, might either giue iudgement themſelues, or appoint others; for they were euen in [g] one place

d Sig. de iure Rom. l. 2. c. 18.

e Sig. de Iud. lib. 1. c. 7.

f Roſin. ant. l. 7. cap. 29.

g Alex. Gen. dier. l. 3. c. 16.

and insteed of *Prætors*. Those which either the *Prætor* or the *Decemviri* did appoint to debate the cases vnder them, were taken out of the *Centumviri*, that is, [h] out of certaine Commissioners chosen for that purpose; namely, three out of every Tribe or Ward; so that in all, the number of them amounted vnto an hundred and fiue, but in round reckoning, they went for an hundred; and from a certaine speare that was wont to be erected vp in token of this Court; hence was the [i] Court called either *Prætoria Decemviralis*, or *Centumviralis hasta*. In some cases their forme of acquittance was thus, [k] *Secundum illum litem do*; whence [l] *Tully* saith, *Quo minùs secundum eos lis detur, non recusamus*, that is, we doe not deny, but they may be acquitted. Those that were cast in their suit, were said, *Lite vel causa cadere*. The publike Cases belonged ordinarily (except the *Consuls*, the *Senate*, or the people did interpose their authority) vnto those whom we called *Prætores Quæsitores*. Some haue [m] thought them to be the same with those, whom *Rosinus* calleth *Iudices Quæstionum*, and that I thinke not altogether vpon vnsure grounds: first, because most of those publique cases, which they tearmed *Quæstiones*, had their [n] seuerall *Prætors* to enquire them: whence they were called *Quæsitores*, and may in my opinion be called *Iudices Quæstionum*, especially seeing that those which would haue them bee different officers, cannot well shew the difference of their offices. Now as the *Vrbane Prætor* had an hundred Commissioners vnder him; so had these *Prætores Quæsitores* certaine Iudges chosen [o] by the *Vrbane* or forreigne *Prætor*, when he tooke his oath: and that not according to his pleasure as many as hee would, or whom hee would, but sometimes more, sometimes fewer, sometimes only out of the *Senators*, sometimes only out of the order of *Romane* Gentlemen, sometimes out of both, sometimes also out of other orders, [p] according as the law appointed, which oftentimes varied in those points. The Iudges, how great soeuer the number was, [q] were called *Iudices selecti*, & were diuided

h Pet. Ramus in secundam de lege Agrar.

i Sig. de Iud. lib. 1. c. 28.

k Sig. de Iud. lib. 1. c. 29.

l Cic. pro Quin. Roscio.

m Rosin. ant. lib. 2. c. 18.

n Sig. de Iud. lib. 2. cap. 4.

o Sig. de Iud. lib. 2. c. 6.

p Sig. ibid.

q Sig. de iur. Rom. l. 1. c. 18.

vided into ſeverall companies, called *Decuria*. Theſe Iudges were vpon any citation from any of the *Prætors*, to giue their aſſiſtance in the Court vpon the day appointed by the *Prætor*. Now the manner how they did proceed in their iudgement followeth in the expoſition of one of the lawes, and therefore I wil referre the Reader thither. Only let him by the way vnderſtand, that whereas *Tully* is quoted in every law, it is not ſo much for the proofe of the law, as to ſignifie, that he in that place maketh mention thereof. For the proofe of the lawes, I referre the Reader to *Roſinus* and *Sigonius*: touching the expoſitions, my marginall quotations doe proue ſufficiently.

CAP. 3.

De Legibus religionem ſpectantibus.

Lex Papiria.

L. *Papirius Trib. Pleb.* eſtabliſhed a law touching the conſecration, or hallowing of places, that it ſhould bee vnlawfull for any to conſecrate either houſes, grounds, altars, or any other things *Iniuſſu plebis*, that is, without the determination of the *Romane* people in their aſſemblies, called *Comitia Tributa*; which determination was alwaies termed *Plebiſcitum*. Cic. pro Domo.

Roſcia Lex.

L. Roſcius Otho. Trib. Pleb. preferred a law, that whereas heretofore the *Romane* Gentlemen did ſtand promiſcuouſly with the commons at their theatrall ſhewes, now there ſhould bee fourteene benches, or ſeates, built for thoſe *Romane* Gentlemen, which were worth H-S. *quadringenta*, that is, about 3125l. of our *Engliſh* mony. As for other Gentlemen, whoſe ſubſtance was vnder that rate, they had a certaine place allotted them by themſelues, with a puniſhment impoſed vpon them, if they offered to come into any of thoſe 14. benches. Cic. Philip. 1. Item pro Muræn.

Here we muſt note, that this character H-S. ſtandeth for a ſilver coyne in *Rome*, called *Seſtertius*; and is by *Roſinus* in this place improperly vſed for *Seſtertium*. For this character H-S is by our Printers falſe printed, the true character [r] being L L-S, ſignifying *duas Libras* (as the two L L doe intimate) and *Semiſſem*, which is intimated by the letter S. Where if *Libra* doth ſignifie no more then the *Romane* coyne, called AS, then is this opinion touching the character LL-S, eaſie to be confirmed. For divers Authors [s] rendring a reaſon of the name *Seſtertius*, ſay, it was ſo called *quaſi Semitertius*, that is, ſuch a coyne as containeth *Duos ſolidos aſſes & ſemiſſem.* This *Seſtertius* was ſuch a common coyne among the *Romans*, [t] that *Nummus* and *Seſtertius* became at length one to be vſed for the other. [u] *Mille huiuſmodi ſeſtertij vel nummi faciunt vnum ſeſtertium in neutro genere, & conficiunt plus minus viginti quinque coronas.* According to which rate, *quadringenta ſeſtertia* amounteth to 3125[l]: and every particular *Seſtertius* is according to this rate, in value three halfe pence farthing.

[r] Fr. Matur. in Phil. 2.

[s] Chr. Hegendorphinus in Verrinam. 1.

[t] P. Nannius in Verrin. 5.

[u] Ch. Hegendorphius in Verrin. 5.

And here we may fitly obſerue the art of numbring by theſe *Seſterces*, which conſiſteth in three rules. Firſt, if the numerall or word that denoteth the number bee a nowne adiectiue agreeing in caſe, gender, and number with the ſubſtantiue *Seſtertius*, then it ſignifieth preciſely ſo many *Seſtertij*: For example ſake; *Decem ſeſtertij* doe ſignifie ſo many times 1[d]. *ob. q*[a] *q.* Secondly, if the numerall being an adiectiue, and of a different caſe, bee ioyned with *Seſtertiũm* in the genitiue caſe plurall, then doth it note ſo many thouſand *Seſtertij*: For example, *Decem ſeſtertiũm* ſignifieth tenne times 7[l] 16[ſ] 3[d]. Thirdly, if the numerall ioyned with *Seſtertiũm* be an adverb, then it deſigneth ſo many hundred thouſand *Seſtertij, ex gra*: *Decies ſeſtertiũm*, doe ſignifie ten hundred times 7[l] 16[ſ] 3[d]. Yea, the numerall being an adverbe, is oftentimes put ſimply by it ſelfe, without the addition of any other word, to ſignifie in the ſame manner, the genitiue caſe *Seſtertiũm* being vnderſtood.

ſtoood. For the better conceiuing hereof, the former example may be thus ſet downe.

Decẽ ſeſtertij	valent	10 Seſtertios	De noſtro	0000l 01ſ 6d ob qa
Decẽ ſeſtertiũm		10 Millia ſeſterũm		0078 02 6 0 0
Decies ſeſtertiũm		10 Sentena. Millia		7812 10 0 0 0
Decies		ſeſtertiũm		

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue whereof the Prieſt called *Peſſinuntius ſacerdos* (from the place where he did firſt exerciſe thoſe holy rites in honour of the mother Goddeſſe) ſhould bee depriued of his Prieſthood; and the Temple built in the honour of this Goddeſſe ſhould be beſtowed vpon *Brotigarus*, of *Gallo-Gracia*. Cic. pro Sext. item de Aruſp. reſpon.

Domitia lex.

Cn. Domitius Ahenobarbus Trib. Pleb. enacted a law, that the Colledges of Prieſts ſhould not as they were wont, admit whom they would into the order of Prieſthood, but it ſhould be in the power of the people. And becauſe it was contrary to their religion, that Church-dignities ſhould be beſtowed by the common people, hence did he ordaine, that the leſſer part of the people, namely, ſeuenteene Tribes ſhould elect whom they thought fit, and afterward he ſhould haue his confirmation or admiſſion from the Colledge. Cic. Agrar. 2.

Lex incerti nominis de vacatione ſacerdotum.

Cicero in his Orations mentioneth a law (not naming the Author thereof) whereby the Prieſts were priuiledged from their ſeruice in all warres, except onely in vproares or ciuill tumults. x And theſe priuiledges were termed *Vacationes*. Cic. Philip. 8. & pro Font.

x B. Latomus in Philip. 7.

Cap. 4.

De Civitate, & iure civium Rom.

Porcia lex de civitate.

Cic. pro Rabir. & ſæpe alias.

M. *Porcius Trib. Pleb.* eſtabliſhed a Law, that no Magiſtrate ſhould beate any *Romane* Citizen with rods.

Lex Sempronia.

Cic. pro Cluentio. & ſæpe alias.

C. Sempronius Gracchus, Trib. Pleb. preferred a Law, whereby he diſabled the Magiſtrate from puniſhing any *Romane* Citizen, either with rods, or with his axe, that is, with death, without the allowance of the people. Secondly, by vertue of this Law, if any Magiſtrate did condemne any *Romane* Citizen *Indicta causa*, he ſhould be liable to the iudgement and cenſure of the people. A third clauſe of this Law was, *Ne quis coiret, conveniret, quo quis iudicio publico circumveniretur Indicta causa.* He was ſaid to bee condemned, *causa indicta*, which was, condemned before he had ſpoken for himſelfe. Although [y] *Indicere pro non dicere, ſicut & invidere pro non videre vix reperiatur; tamen indictum & inviſum, pro non dicto, & non viſo ſæpè reperiuntur.* [z] They were properly ſaid *Coire*, which did worke vnder hand againſt a man, that hee might be condemned; we may tranſlate it in this place, to **Conſpire.** [a] The verbe *Circumvenio*, doth commonly ſignifie as much as *Circumſcribo*, to deceiue or cheat one: but in this place, to oppreſſe one with falſe iudgement, procured by bribery or confederacy,

y P. Ramus in orat. pro Rabirio.

z Fr. Sylv. in orat. pro Cluentio.

a I. Camerar. in orat. Cic. pro L. Flacco. b Fr. Sylu. in orat. pro Cluentio.

Cic. pro Balb.

Lex Papea de perigrinis.

The priuiledges of the *Romane* Citizens became ſo great, that almoſt all the inhabitants of the confederate Nations, would forſake their owne dwellings, and vſe meanes to become free Deniſons in the *Romane* Citie; inſomuch that the Embaſſadours of the Allies, and aſſociates, did grieue much and

and complaine of the losse of their inhabitants: whereupon a Law was made by *Papius*, that all forreiners & strange commers should be expelled out of the Citie. To the same effect was *Lex Iunia*, and also *Licinia Mutia de perigrinis*: the first being preferred by *Mar. Iunius Pennus*: the second by *L. Licinius Crassus*, and *Q. Mutius Scævola*. Cic. offic. l. 3.

Seruilia lex de civitate.

C. Seruilius Glaucia preferred a Law, *Vt si quis Latinus*, If any of the Latine associates could proue an action of bribery against a *Senatour*, then should he be made a feee-man of the Citie. Cic. pro Balb.

Quis Latinus] Here we will obserue with [c] *Sigonius*, that the *Latine* people were not alwaies called *Latini & Italici*: *Sed & socij & Latini socij: & socij nominis Latini, & socij nomenq; Latinum, & socij ab nomine Latino, & socij ac Latinum dicti sunt.* c Sig. de iure Ital. l. c. 2.

Sylvani & Carbonis lex de Peregrinis.

Silvanus and *Carbo* being *Tribuni Pl.* preferred a Law, *vt qui fœderatis civitatibus adscripti essent, si tum, cùm lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud prætorem professi essent, cives Romani essent.* Cic. pro Archia.

Adscripti.] For the right vnderstanding hereof, wee must note, that there were [d] two sorts of Citizens; some *cives nati*, that is Citizens by birth; others *civitate donati*, that is, Citizens by donation, or gift: who because they were added vnto, & registred with the first sort of Citizens, were thence called *Adscripti cives*. d Fr. Sylu. in orat. pro lege Manil.

Professi apud Prætorem.] This verbe *profiteri* is sometimes [e] *Comitiale verbum*, and signifieth as much as *profiteri nomen*, that is, to tender ones name vnto a Magistrate: and this construction it beareth in this place: e P. Ramus in or. Cic. Agrar. 2.

Cornelia de Municipijs.

L. Cornelius Sylla, preferred a Law, that all *Municipall* States should loose their freedome in the *Romane* Citie, and also their priuiledge of hauing commons in the *Romane* fields. Cic. pro Domo.

Gellia

Gellia Cornelia lex.

Cic. pro Balb. *L. Gellius Publicola*, and *Cn. Cornelius Lentulus*, being Conſulls decreed a law, that all thoſe priuate perſons vpon whom *Cn. Pompeius* in his wiſedome ſhould beſtowe the freedome of the *Romane* Citizens, ſhould ever be accounted free Deniſons.

CAP. 5.

De legibus ad comitia ſpectantibus.

Ælia lex.

Cic. multis in locis. Q. *Ælius Pætus*, asked a Law in time of his Conſulſhip, *vt quoties cum populo ageretur*, that is, as often as any *Romane* Magiſtrate did aſſemble the people to giue their voices, the *Augures* ſhould obſerue ſignes and tokens in the firmament, and the Magiſtrate ſhould haue power *obnunciandi, & intercedendi*, that is, to gainesay and hinder their proceedings.

Ageretur cum populo.] Here we may note the difference betweene theſe two phraſes, *Agere cum populo*, and *Agere ad populum*. f He was ſaid *Agere ad populum*, whoſoeuer made any ſpeech or Oration vnto the people, and this might bee done vpon any day indifferently: But then onely was it ſaid *Agi cum populo*, when the people were aſſembled to the giuing of their voices by a lawfull Magiſtrate; and the people were demanded what their opinion was in the matter propoſed: and this could not be done, g but vpon one of thoſe daies which they called, *Dies Comitiales*.

f A. Gel. l. 13. cap. 14.

g Berſman. de vet. dier. ratione ad finem. Ouid, Faſt. Cic. in ſuis orat. ſæpe.

Fuſia lex.

Pub. Furius ſiue Fuſius Philus being *Conſul*, ordained a Law, that vpon ſome certaine daies, although they were *dies Faſti*, that is, Leet-daies, yet no Magiſtrate ſhould ſummon an aſſembly.

Clodia

Clodia lex.

P. Clodius Trib. Pl. abrogated both thoſe former Lawes, making it vnlawfull to obſerue ſignes and tokens in the heauens, vpon thoſe daies when the *Romane* people were to bee aſſembled: And ſecondly, making it lawfull to aſſemble the people vpon any Leet-day whatſoeuer. Cic. pro Sext.

Gabinia lex.

At firſt, for many yeeres the *Romane* people in their aſſemblies did ſuffrage *Viuâ voce*: at which time many of the inferiour ſort, gaue their voices contrary to their wils, fearing the diſpleaſure of thoſe that were of higher place. For the better helpe in this point, *Gabinius* asked a Law, that the people in all their elections might not ſuffrage *Viuâ voce*, but by giuing vp certaine tablets, the manner whereof hath beene formerly ſhewen: whence both this, and all other Lawes tending to this purpoſe, haue beene called, *Leges tabellariæ*. Cic. 3. de leg.

Caſſia lex.

After *Gabinius*, *Caſſius* alſo preferred a Law, that both the Iudges in their iudgements, and the people in their aſſemblies ſhould ſuffrage by rendring ſuch tablets: [b] but this is to be vnderſtood onely of thoſe aſſemblies by Wards, called *Comitia Tributa*: wherein they treated of mulcts and mercements. Cic. in Lælio. b Roſin. ant. l. 8. c. 3.

Cœlia lex.

Cœlius Trib. Pl. eſtabliſhed a Law, that not only in mulcts and mercements, but alſo *In perduellionis iudicio*, that is, in taintments of Treaſon againſt any perſon of State (namely, ſuch as were *ſacroſancti*) or againſt the Common-weale, this *Tabellary* liberty ſhould haue place, when the people ſhould iudge thereof. Cic. 3. de leg.

In perduellionis iud.] [i] This word *perduellis* doth ſignifie an enemy vnto the State, a Traytour: and hence commeth this word *perduellio*, ſignifying not onely the crime of treaſon, but the puniſhment alſo due thereunto, [k] *Si crimen quod erat graui-* i Cælius Sec. Curio in orat. pro Milone. k Sig. de iud. l. 3. c. 3.

vissimum inter crimina, nempe imminuta maiestatis: si pœna, quæ erat acerbissima, nempe mortis.

Papiria lex.

Cic. de leg. 3. *C. Papirius Carbo Trib. Pl.* perswaded, that not onely in their elections, but in the proposall of their Lawes also, this suffraging by tablets should be vsed.

Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus Trib. Pleb.* preferred a Law, that the Associates of *Latium*, should haue as great right of suffraging, as the *Romane* Citizens.

Manilia lex.

Cic. pro Mur. *C. Manilius Trib. Pl.* preferred a Law, that all those who were *Libertini*, in what Tribe or Ward soeuer, should haue the right of suffraging.

Cap. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verrin. 7. *Q. Clandius Trib. Pleb.* perswaded a Law, that no *Senator*, or *Senators* father, should haue any Shippe, which should containe aboue three hundred of those measures called *Amphoræ*, deeming that sufficient for the transportation of their corne from the *Romane* fielde. Secondly, by this Law, the *Senators* were forbidden the vse of trading.

[Alex. Gen. dier. l. 2. c. 20. *Amphoræ.*] [1] *Alexander Neopol.* obserueth two sorts of these measures, namely, *Amphora Italica*, containing 2. *Vrnas*; and *Amphora Attica*, containing 3. *Urnas*: every *vrna* contained two gallons and a pottle. This in probability is vnderstoode of the *Italian Amphora*.

Tullia lex.

Cic. Philip. 1. When as custome had growne, that many of the *Senators* hauing by speciall fauour obtained *Liberam legationem*,

vpon

vpon all occaſions would abuſe that their authority, procuring thereby their private gaine, & the encreaſe of thier owne honour; then *M. Tullius Cic.* being *Conſul* laboured, quite to take away theſe kinds of Embaſſages: which though hee could not effect, yet thus farre he preuailed; That whereas in former times this *Libera legatio* being once obtained, was neuer (not through a mans whole life) taken from him againe: yet afterward this authority ſhould neuer be granted to any longer, then the ſpace of one yeere.

Legatio libera. We may obſerue in ancient Authors three ſeuerall kindes of Embaſſages. The one, which is a meſſage ſent from the Prince or chiefe Gouernours of one Country vnto another, and that is expreſſed commonly by this one word *Legatio*, without any addition thereunto; ſometimes it is called, *Legatio mandata.* The ſecond, which is when one purchaſeth the title of an Embaſſadour, thereby the more honourably to performe ſome vowe made, whence it was called *Legatio Votiua.* The thied is the Office or title of an Embaſſadour, granted vpon ſpeciall fauour vnto a *Senator*, that he might with the greater authority proſecute his priuate ſuits in Law, or gather vp his debts in that Province whether he went: this laſt was termed *Legatio libera.* All three ſorts are briefly touched by [m] *Toxita.*

[m] M. Toxita. in orat. Phil. 1.

Cap. 7.

De Magiſtratibus.

Cornelia lex.

L. *Cornelius Sylla* being *Dictator*, made a Law, that all ſuch as would follow him in the ciuill warre, ſhould bee capeable of any Office or Magiſtracy, before they came vnto their full yeeres. A ſecond part of this Law was, that the children of ſuch as were *proſcripti*, ſhould be made vncapeable of the *Romane* Magiſtracies. Cic. in Piſon.

Before they came to their full age.] For *L. Villius* preferred a Law, whereby he made such as were vnder age, to bee vncapeable of the Citie preferments: and those he accounted vnder age, who had not attained vnto that number of yeeres which he had prescribed each seuerall Office: [n] and this Law, was termed *lex annalis*.

n P. Ramus in Agrar. 2.

Proscripti, were such persons as were banished. For the fuller vnderstanding, looke Proscription in the Tract of punishments. *Iulius Cæsar* did contrary to this Law, *Admisit ad honores & proscriptorum liberos. Sueton. Iul.* 41.

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a Law, that all those that followed *Pompey*, should bee made vncapeable of all places of Office.

Cornelia lex.

Cic. Philip. 2. *L. Cornelius Sylla*, finding the *Prætores*, that is, the L. chiefe Iustices, not to giue sentence alwaies according to equitie, yea sometimes to goe quite contrary to their owne Edict, made a Law, that euery L. chiefe Iustice should administer iustice according to that his first Edict, hanged vp at the beginning of his Office. An addition to this law was, that the L. chiefe Iustice should not bee absent out of the City aboue ten daies.

Clodia lex.

Cic. pro Sext. In former times it was lawfull for either of the *Censors* to censure whom he pleased, and how he pleased, except his fellow *Censor* did plainely gainesay it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. Pl.* made a Law, that the *Censors* should not ouerskip any in their election of *Senators*; neither should they brand any with disgrace, except such as had beene accused vnto them, and beene condemned by them both.

Valeria lex.

Cic. Verrin. 4. The Office of a *Dictator* at the first institution continued but six months space, vntill *L. Valerius Flaccus* being *Interrex*

rex, in the vacancy of the *Conſuls* preferred a law, that *L. Cornelius Sylla* ſhould be a perpetuall *Dictator*.

Cornelia lex.

L. Cornelius Sylla in the time of his *Dictatorſhip*, did by vertue of a law preferred by him, clip the authoritie of the *Tribuni Pl.* diſabling them of bearing any office after the expiration of their *Tribuneſhip*, taking away their authoritie of preferring lawes, of vſing any ſolemne ſpeech, or publike oration vnto the people, of hearing appeales, of hindring any ſtatute or decree, tending to the hurt of the populacy. Cic. 3. de leg.

Cap. 8.

De legibus.

Cæcilia Didia lex.

Cæcilius Metellus, and *Titus Didius* being *Conſuls*, forbad that *Una rogatione*, that is, in one and the ſame bill, many things ſhould be propoſed vnto the people, leſt by that meanes, the people by granting the whole bill, might grant ſomething which they would not; or in denying the whole bill, might deny ſome particular clauſe, which by it ſelfe they would haue accepted. Moreouer, theſe two *Conſuls* ordained, that before a law ſhould be asked in the aſſemblies, it ſhould be promulged, that is, hanged vp to the publike view of the people three market dayes. Cic pro domo ſua ad pontif.

Iunia Licinia lex de trinundino.

Iunius Silanus, and *L. Licinius Muræna* being *Conſuls*, eſtabliſhed that law of *Cæcilius* and *Didius*, annexing a more ſeuere puniſhment for the breakers thereof. Cic. Philip. 5.

Clodie lex de interceſſione.

P. Clodius Trib. Pleb. made a law, that the *Trib. Pl.* ſhould haue full authoritie and power to propoſe lawes; neither ſhould they be hindred by the *Interceſſion*, that is, gainſaying of any. Cic. pro Sext

Licinia Æbutia lex.

Cic. pro dom, ſua ad pont.

Licinius and *Æbutius* being *Trib. Pl.* ordained that if any preferred a law touching the ouerſight, the charge or cure of any buſineſſe in hand; neither he, nor any fellow-officer with him, nor any allyed vnto him ſhould haue this ouerſight, or charge committed to him.

Cap. 9.

De Prouincijs.

Sempronia de Prouincijs.

Sempronius Gracchus Trib. Pleb. ordained, that the *Senate* every yeare before the election of their *Conſuls*, ſhould as it ſeemed beſt to them, appoint out what Prouinces the *Conſuls* now to be elected, ſhould after the expiration of their office goe vnto; for which Prouinces afterward the *Conſuls* deſigned ſhould caſt lots. Another clauſe to this law was, that whereas in former times, by a decree from the *Senate*, it was lawfull for the *Tribunes* to hinder the *Romane* aſſembles, henceforward they ſhould haue no authoritie.

Cic. de prouinc. conſulatibus.

Cornelia de Prouincijs.

Cic. ep. 9. ad Lentul.

L. Cornelius Sylla being *Dictator*, preferred a law, that whoſoeuer went into a Prouince *cum imperio, tam diu illud imperium retineret, quoad in vrbem reuerſus eſſet*; whereas in former times his rule and gouernment was to be reſigned at the expiration of a ſet time appointed: yea, although no ſucceſſor were ſent, yet could he not continue there *cum imperio* without a new commiſſion. A clauſe added vnto this law was, that after the comming of any new *Preſident* or Gouernour into the Prouince, the old *Prouinciall Preſident* ſhould depart within thirtie dayes.

p Sig. de iur. Prou. l. 3. c. 13.
q Sig. eiuſd. lib. cap. 6.

Eſſe cum imperio.] That is, p *Exercitui præeſſe*, q *vel habere ius adminiſtrandi, & ſuis auſpicijs gerendi belli.*

Titia

Titia de Provincijs.

Titius, or (as [r] ſome ſay) *Decius* preferred a law, that the Provinciall Treaſurers called *Quæſtores*, ſhould caſt lots for their Prouinces: whence *Tully* in the oration now quoted inferreth, that although *Oſtia* being the better Prouince fell vpon *Seruius Sulpitius*, yet in as much as it fell *Lege Titia*, that is, by caſting lots, he could not therefore challenge any ſuperiority aboue *L. Muræna*. *Sed vtriuſque nomen conſedit in Quæſtura*, that is, their fame and renowne was equall in their *Quæſtorſhip*. Cic. pro L. Muræn. [r] Melanct. in orat. pro Muræna.

Iulia lex de Provincijs.

C. Iulius Cæſar eſtabliſhed two lawes touching the *Romane* Prouinces: one, that no *Prætor* ſhould gouerne a Prouince aboue twelue months; nor *Proconſull* aboue two yeare. The ſeuerall heads or clauſes of his ſecond law could not all be found out, but thoſe which haue come to light are theſe. Firſt, that *Achaia*, *Theſſalia*, and all *Græcia* ſhould bee free, neither ſhould any *Romane* Magiſtrate ſit in iudgement in thoſe Prouinces (*Cic. pro domo.*) Secondly, that the Provinciall gouernours and their *Comites*, that is, aſſiſtants, or attendants ſhould haue hay, and all other neceſſaries prouided them on the way, by thoſe Townes and Villages, through which they paſſed. (*Cic in Piſon.*) Thirdly, that the Provincial Magiſtrates at their departure, ſhould leaue a booke of their accounts in two Cities of their Prouince, and likewiſe ſhould ſend a coppy of their accounts vnto the *Romane* Treaſure-houſe (*Cic. in Piſon.*) Fourthly, that it ſhould neither bee lawfull for the people to beſtow, nor for the Prouinciall Magiſtrate to receiue *Aurum coronarium*, vnleſſe it were in a triumph. (*Cic. in Piſon.*) Laſtly, that it ſhould be vnlawfull for the Provinciall Magiſtrate without the allowance of the people or the *Senate*, to depart out of their Prouince, to lead forth any army, to wage warre, or to goe into any forraine country. (*Cic. in Piſon.*) Cic. Philip. 1.

Aurum coron.] [s] There was a cuſtome among the *Romans* in [s] Lipſ. de mag. Rom. l. 2. c. 9.

in times of victory to preſent vnto the L. Generall Coronets of gold, inſteed whereof the after-ages preſented a certaine ſum of mony, which was thence called *Aurum coronarium.*

Vatinia de Prouincijs.

Cic. pro Balb. *P. Vatinius Trib. Pl.* procured a law, that *C. Iulius Cæſar* ſhould haue the gouernment of *Gallia Ciſalpina*, and *Illyricum* for fiue yeares ſpace, without any decree from the *Senate*, or caſting lots. Secondly, that they alſo ſhould goe as Legates, or L. Deputies vnto *Cæſar*, without any decree from the *Senate*, whoſoeuer were nominated in that law. Thirdly, that *Cæſar* ſhould receiue mony out of the common Treaſure-houſe towards hauing an army. Laſtly, that hee ſhould tranſplant a *Colony* vnto a certaine towne of *Ciſalpina Gallia*, called *Nouocomum.*

Clodia de Prouincijs.

Cic pro Dom. *P. Clodius* being *Trib. Pleb.* procured a law, that the gouernment of *Syria*, *Babylon*, and *Perſia*, ſhould be committed to *Gabinius.* The gouernment of *Macedonia*, *Achaia*, *Theſſalia*, *Græcia*, and all *Bœtia*, ſhould be committed vnto *Piſo*; and they ſhould receiue together with an army, money out of the common Treaſurie towards their iourney.

Clodia altera de Cypro.

Cic. pro Sext. *P. Clodius* preferred another law, that the Iland of *Cyprus* ſhould be made a Prouince. That *Ptolomæus*, the King of *Cyprus* ſitting in his purple, with his ſcepter, & other his princely ornaments, *Præconi publico ſubijceretur, & cum bonis omnibus publicaretur*, that is, ſhould himſelfe with all his goods, be ſold by a common cryer. That *M. Cato* being then Treaſurer, *cum iure Prætorio, adiecto etiam Quæſtore*, hauing by commiſſion the office of a L. chiefe Iuſtice, & another Treaſurer to accompany him, ſhould bee ſent into the Iland *Cyprus*, both to make ſale of the kings goods and eſtate, and alſo to bring backe the money. Laſtly, it was decreed by this law, that thoſe who liued in exilement at *Byzantium*, being condem-

condemned for ſome capitall crime, ſhould be brought backe vnto that Citie, vnder the name of *Romanes.*

Præconi publico ſubijceretur.] For the better vnderſtanding of that phraſe, wee are to vnderſtand the manner of portſale amongſt the *Romanes:* which wee may reade in *Sigonius* thus. Thoſe things were rightly ſold in port-ſale, which were publikely ſold *Per præconem ſub haſta,* that is, by the Cryer vnder a ſpeare ſticked vp for that purpoſe, and ſome Magiſtrate making good the ſale by deliuery of the goods. Whence I take *Publico præconi ſubijci,* and *Haſtæ ſubijci,* to ſignifie one and the ſelfe ſame thing, namely, to be ſet at ſale: and [t] *Cicero* vſeth almoſt the ſelf-ſame phraſe, *Bona Cn. Pompeij, voci acerbiſſimæ ſubiecta præconis.* This kind of ſale was termed *Auctio;* becauſe, as *Sigonius* ſaith in the ſame place, to him the goods were ſold, *Qui plurimum rem augeret,* that is, which would bid moſt for it: and hence is the ſeller thereof tearmed *Auctor,* as [u] *Cic. Id quod à malo auctore emiſſent,* that is, that which they had bought of one, which had no authoritie to ſell: and from this cuſtome of ſetting vp a ſpeare in this kind of ſale, the word *Haſta* alone is vſed to ſignifie port-ſale, as [x] *Haſta Cæſaris,* the ſale of *Cæſars* goods. Thoſe who bought theſe goods [y] *Tully* doth call *Sectores,* [z] *quia ſpem lucri ſui ſectabantur.* In ſuch kind of ſales a catalogue or note of the goods to be ſold was hanged vp in tables for the publique view of paſſengers. Whence ſuch goods were tearmed *ſuſpenſa bona.* And if any friend would redeeme the goods, then did he *dejcere libellos,* that is, put in bands and ſecuritie to anſwer the matter. The phraſe is vſed by *Tully Cic. pro Quintio.* And alſo by *Seneca, de benef. lib. 4. cap. 12. Suſpenſis amici bonis libellum dejecto, creditoribus eius me obligaturus.* It is thus explained by *Turnebus adv. lib. 12. ca. 9.* If the ſale proceeded on, then ſuch as purpoſed to bee chapmen, ſignified their deſire by holding vp their finger: whence *Digitum tollere,* ſignifieth the deſire of buying ſuch goods. *Alex. ab Alex. lib. 4. cap. 26.*

t Cic. Phil. 11.

u Verrin. 7.

x Cic. Phil. 8.
y Cic. in Ver.
z Sig. de iud. lib. 2. cap. 24.

Cap. 10.

De Legibus Agrarijs.

THose lawes were termed *Leges Agrariæ*, which did concerne the diuision of the publique, or common fields. And these were either giuen by *Romulus* and other Kings; or taken from the enemies, or from priuat men which had made incloasures; or lastly, bought out of the common Treasury. *Vid.*[a] *Sigon.*

a Sig. de iure Ital. l. 2. c. 2.

Sempronia lex Agraria.

Cic. pro Sext. *Titus Sempronius Gracchus Trib. Pleb.* preferred a law, which forbad, that any of the *Romanes* should haue to his owne part aboue fiue hundred acres of the common fields, the one halfe of which, it was lawfull for his sonnes to enioy. If it had so happened, that any should enlarge these common fields, three suruayers, called the[b] *Triumviri agro dividundo*, did marke out which was common, which priuate ground. Moreover, it was by this law prouided, that the money of King *Attalus*, who made the people of *Rome* his heire, might be bestowed vpon those citizens, which had by this law obtained a part of the common fields, to the buying of instruments for husbandry. Moreover, that the kings lands should be farmed out at a set rent by the *Censors*, whence an yearely tribute should be paid to the people.

b Sig. de iure Ital. l. 2. c. 2.

Cornelia lex.

Cic. in Rullum. *L. Cornelius Sylla* being *Dictator*, preferred a law, that all the fields of those *Romanes* which he had banished, should be common. This publication is to bee vnderstood chiefly of those fields in *Thuscia*, neere vnto the Citie *Volaterræ*, & the City *Fesulæ*, which grounds *Sylla* diuided amongst his souldiers.

Cap.

Cap. 11.

De frumentarijs legibus.

Sempronia lex.

T *Sempronius Gracchus*, being Tribune of the Commons, prouided, that a certaine quantitie of corne, should monthly be giuen vnto the poorer sort at a low price. *Semisse & triente*, that is, about sixe pence farthing a bushell. Herevpon was there a place appointed in *Rome*, for the keeping of this common corne, together with certaine lawes hanged vp there, called *leges frumentariæ*. This place was called [c] *Horrea Sempronia*. The quantitie of corne laid vp in euery Citie for this purpose, is by the latter Lawyers termed *Canon*: as *Canon Alexandrinus, Canon vrbis Romæ, &c. vid. Stuk. de conviv. lib. 1. cap. 35.* Cic pro Sext.

c Rosin. ant. lib. 8. c. 12.

Semisse & triente.] It appeareth by the next law, that *Semissis* in this place, must signifie the same, as *senis æris* doth there. Whereby we may note, that *semissis* doth not alwayes signifie the halfe part of the *Romane* coine, called *As*, but sometime it signifieth a greater coine, valuing almost our sixpence.

Clodia lex.

P. Clodius Trib. Pl. ordained, that that corne which heeretofore was sold to the poore *senis æris & trientibus in singulos modios*, that is, for sixe pence farthing a bushell, should hereafter be giuen *gratis*, and the charge and ouersight of this dole was committed to *Sext. Claudius*.

Terentia Cassia.

M. Terentius and *C. Cassius* being *Consuls*, preferred a law, *Vti alteræ decumæ à provincijs coemerentur, pretio in singulos modios HS trium constituto. Item vt civitatibus æqualiter imperaretur, pretio in singulos modios HS quatuor constituto.* Cic. pro Sext. in Pisone. Cic. Verrin. 5. & 7.

For the better vnderſtanding of this law, wee muſt note
d Sig. de iure Prov. l. 1. c. 1. d a threefold tithe payed by the Prouinces. The firſt was the tenth part of the graine growing in the Prouince, to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum Decumanum*, and thoſe that tooke this tithe to rent, were called thence *Decumani*. A ſecond ſort of tithes, was a certaine quantitie of corne taken vp for the L. Preſident, or chiefe Gouernour of the Prouince, to keep his houſe, and that was called *Frumentum æſtimatum*, that is, corne gathered vp by way of taxation: for ſo this word *æſtimo*, comming from *æs*, doth
e Fr. Sylv. in orat. pro Cluentio. ſignifie. e *Eſt autem æſtimare ab ære, dictum, id quod vulgo dicunt appreciare & taxare.* The third ſort of tithes was, when the *Senate* finding ſcarcitie of corne in *Rome*, did inioyne the Prouinces to ſell them a quantitie of corne at a price ſet downe by the *Senators* themſelues; and this corne ſold vpon iniunction, if it was paid but once in the yeare, it was teamed *Frumentum emptum*: but if in the ſame yeare a ſecond ſale was inioyned them, then they called that ſecond pay *Frumentum imperatum*. In the firſt clauſe of this law by [*alteræ decumæ*] is meant *Frumentum emptum*; in the ſecond clauſe, by theſe words [*ciuitatibus æqualiter imperaretur*] is vnderſtood *Frumentum imperatum*.

Lex Hieronica.

Cic. Verrin. 4. *Hierò*, King of *Sicily*, obtained a law, wherein was ſet down the quantitie of corne that the *Aratores*, or country Farmers ſhould pay vnto the *Publicani*, that is, thoſe which receiued the tithes, together with the time of payment, and the price agreed vpon.

CAP. 12.

De legibus ſumptuarijs ſiue cibarijs.

IN ancient times there was a commendable frugalitie among the *Romanes* in their feaſts, but after ages grew to immoderate exceſſe therein, ſo that whole Goates and

Boares,

Boares, &c. were ſet on the table at one time. Such a hogge thus dreſſed, *Cincius* was wont to call [a] *Porcum Troianum*, alluding to the *Troian* horſe; becauſe the belly thereof was ſtuffed with variety of Fowle and Rabbets and ſuch like, as the *Troian* horſe was with Armed men. This kinde of exceſſe, *Tiberius Cæſar* laboured to redreſſe, by ſeruing at table his cold halfe-eaten diſhes at ſolemne feaſts, vſing this proverbe, [b] *Dimidiatus aper omnibus eadem habet quæ totus.* Hence alſo men of ſeuerer diſcipline, enacted Lawes termed, *Leges ſumptuariæ*, or *Cibariæ*, which preſcribed a moderation, not onely for the charges in their greateſt Feaſts, that they ſhould not exceed ſuch and ſuch ſummes of money: but alſo for the gueſts to be inuited, that they ſhould not exceed ſuch a number. The chiefe of theſe Lawes were theſe that follow.

[a] Stuk. de conviv. lib. 3. c. 3.

[b] Suet. Tiber. 34.

Lex Orchia.

C. Orchius, being Protector of the Commons, by the conſent of the *Senate*, the third yeere before *Cato* was *Cenſor*, preferred a Law, whereby he onely moderated the number of gueſts, without any limitation of the charges or ſuperfluous expence at feaſts.

Lex Fannia.

Twentie two yeeres after *Orchius* his Law, *C. Fannius* being *Conſul* enacted another, for the moderating of expences, allowing; *Non plures denis aſſibus*, to be ſpent in their ordinary feaſts: But vpon thoſe more ſolemne feaſts dedicated vnto *Saturne*, and from thence called *Saturnalia*, likewiſe when any publike games were exhibited to the *Romane* people, he then allowed *Centum aſſes*, ordaining that no other Fowle ſhould then be dreſſed but onely one Henne, and that not fatted for the purpoſe.

Non plures denis aſſibus.] The *Romane* Coyne, *As*, was ſo called [c] *quaſi æs*, becauſe the matter thereof was *Braſſe*; [d] at firſt it conſiſted of a full pound weight; afterward in the firſt *Punick* warre, by reaſon of the ſcarcity of money, they made of every pound of braſſe ſix of thoſe Coynes, each valuing as much

[c] Varro. lib. 4. de ling. Latina

[d] Plin. l. 33. c. 3

much as they did at firſt. In the ſecond *Punick* warre then were twelue made of euery pound; At laſt by vertue of a Law which *Papirius* enacted, foure and twenty were made of a pound; and ſo they continued; the value alwayes remained the ſame, *videl.* ob. q^a. So that to allow but ten of theſe to a feaſt, ſeemeth a matter altogether vncredible, but conſider with the frugality, the cheapneſſe of thoſe times, it may be granted for a truth; [e] for ten of theſe were the price of a Sheepe, and an hundred the price of an Oxe.

[e] A. Gell. l. 11. cap. 1.

Lex Didia.

Eighteene yeeres after *Fannius*, *Didius* ordained, that the former ſumptuary Lawes ſhould bee of force, not onely in *Rome*, but throughout *Italy*. Moreouer, that not onely the feaſt-maſter tranſgreſſing, but all the gueſts ſhould bee liable to the penalty.

Lex Licinia.

P. Licinius Craſſus preferred a Law, in a manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his Law being now almoſt antiquated, then made an new.

Lex Cornelia.

Cornelius Sylla, being *Dictator*, ordained a Law for the price of meates, ſo that he was thought by cheapnes of victuals, to encreaſe, rather then reſtraine ſuperfluities at feaſts.

Lex Antia.

Antius Reſtio preferred a vſefull Law, to moderate expences in feaſting, which notwithſtanding was violated, and in a manner abrogated, by the contrary practiſe of the Citizens in generall. For which cauſe, *Reſtio* afterward being invited, would neuer come to any feaſt, becauſe he would not be an eye-witneſſe of the contempt of that Law, which himſelfe had cauſed. If any deſire to ſee more Lawes of this nature, let him read, *Stuck. conuiv. lib. 1. cap. 3. Aul. Gell. lib. 2. cap. 24.* And *Macrob. Saturn. lib. 3. cap. 17.*

CAP.

Cap. 13.

De re militari & bellis.

Gabinia lex.

A *Gabinius Tr. Pl.* preferred a Law, that the managing of the warre against the Pyrats should be in such manner committed vnto *Pompey* for three yeeres space, that ouer the whole Sea betweene *Hercules* his pillars, and in the maritime Provinces, vnto the fourth hundreth *Stadium* from the Sea, hee should haue the power to command any Kings, L. Presidents, or whole Corporations to furnish him with all things necessarie for that warre. Cic. pro lege Manilia.

Manilia lex.

C. Manilius Trib. Pleb. perswaded a Law, that the managing of warre against *Mithridates* should be committed vnto *Cn. Pompeius*. That the whole Province where *L. Lucullus* ruled, together with his whole Armie, should be resigned vp vnto him. Moreouer, that *Bythinia*, where *Gabrio* ruled, should be added, together with all those Bands and Forces, which he had vpon the Sea against the Pyrats, and all those Provinces, over which the Law *Gabinia* did entitle him gouernour, as *Phrygia*, *Lycaonia*, *Galatia*, *Cappadocia*, *Cilicia*, *Colchis superior*, and *Armenia*. Cic. pro lege Manilia.

Cap. 14.

De Tutelis.

THis word *Tutela*, doth signifie a Wardship, Guardianship, or Protection of a child in his nonage: whereof [f] *Camerarius* obserueth foure sorts, and we may with *Pellitarius* adde the fift. Either the ouerseers were appointed by Will; or else the next of the kinne were ouerseers; or the [f] I. Camerar. in orat. pro L. Flacco.

Magi-

Magiſtrate did appoint whom he thought fit: and theſe three ſorts [g] *Omphalius* calleth thus: the firſt *Teſtamentariam*, the ſecond *Legitimam*, the third *Dativam*. The fourth ſort *Camerarius* calleth, *Tutelam fiduciariam, quæ eorum eſt, qui emancipati deſyſſent eſſe agnati.* The fift [h] *Pellitarius* calleth, *Tutelam honorariam*, namely, when as the Office of adminiſtration is committed to others, but yet certaine chiefe ouerſeers were appointed to ſee the Will performed, who were called *Tutores honorarij.* [i] Where wee muſt note, that the Law prouided ouerſeers, not for children vnder age onely, but for women alſo.

g I. Omphal. in orat. pro Cecinna.

h Pellitarius pro Cecin.

i Cic. pro Muræn.

Emancipati deſyſſent eſſe agnati.] By the *Romane* Law, euery ſonne was in ſuch ſubiection vnto his father, that before he could bee releaſed of this ſubiection, and made free, hee ſhould by an imaginary ſale [k] be ſold three times by his naturall father to another man, who was called by the Lawyers, [l] *Pater fiduciarius*, that is, a father in truſt; yea and he bought againe by his naturall father, and ſo manumiſed by him, and then he became free. The forme of this kinde of ſale or alienation is ſet downe more at large in the explanation of one of the Lawes that followeth, with an example not much vnlike this. This imaginary ſale was called *Mancipatio*; the children thus alienated from the father were termed *Emancipati*; this forme of ſetting free, was termed *Emancipatio.* This *Fiduciaria tutela* then, in my opinion was thus. That when any goods did fall vnto a child thus alienated, by the death of his father, then ſhould not the ouerſight of this child fall vnto the next of the kinne, termed *Agnati*, but *Quoniam deſyt eſſe agnatus*, that is, becauſe he had in a manner loſt his alliance with his kindred, therefore ſhould the ouerſight of the child belong vnto the father in truſt, termed *Pater fiduciarius*, whence the guardianſhip it ſelfe was called *Tutela fiduciaria.*

k Vid. leg. 12. tabul.

l Sig. de iure. Rom. l. 1. c. 10

Lætoria lex.

C. 3. de offic.

This Law made by *Lætorius* provided, that there ſhould be ouerſeers appointed for thoſe which were diſtracted, or did

did prodigally waſte their patrimonie. For, as it appeareth by the common Adage, *Ad agnatos & Gentiles deducendus eſt*, they did account all prodigals, mad men: they meaning no more by that, then we do by our Engliſh prouerbe, when we ſay of a ſpend-thrift: let him be begged for a foole. The reaſon of their Adage was, becauſe if any were diſtracted, by the *Romane* Law his Wardſhip fell *Ad agnatos & Gentiles*, that is, to the next of the kindred.

Cap. 15.

De Teſtamentis.

BEfore we deſcend vnto the Lawes themſelues, wee will explaine thoſe three divers ſorts of Wils in vſe amongſt the *Romanes*. Namely, *Teſtamentum calatis comitijs*; which was ſo called, becauſe twice in the yeere in time of peace, the *Romane* people aſſembled themſelues together to this end and purpoſe, that if any would make his Will, the whole people might beare witneſſe thereunto: theſe aſſemblies were termed *Calata comitia*. Secondly, *Teſtamentum in procinctu*, that is, when a ſouildier in time of warre ready to giue battle, did call out three or foure of his fellowes, and in the audience of them, did by word of mouth, pronounce his laſt Will and Teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making ouer his goods and poſſeſſions, vnder a fained forme of ſale, vnto a ſecond party called *Hæres fiduciarius & imaginarius*, that is, an heire in truſt, who ſhould afterward reſigne them vnto the true and lawfull Heire: and this imaginary kinde of ſale, was performed with certaine ſolemnities, *circa æs & libram*, and alſo the ſale it ſelfe was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the Will ſometimes called, *Teſtamentum per æs & libram*, ſometimes, *Teſtamentum per Nexum*. For the prooſe of this which hath bene deliuered, touching the three ſorts of Wils, I

will referre the reader to [m] *Sigonius*.

m Sig. de iure Rom. l. 1. c. 12.

Furia lex.

Cic. Virrin. 3. *C. Furius Trib Pleb.* made a Law, that it ſhould not bee lawfull for any to giue away in way of Legacy, vnto any except to the kinſmen of him which manumiſed him, or ſome other certaine perſons *ſupra mille aſſes*, that is, aboue fiftie ſhillings or thereabout, there going 2. *Aſſes & ſemis*, to the making of one *Seſtertius*.

Voconia lex.

Cic. Verrin. 3. *Q. Voconius Saxa Trib. Pleb. tulit legem, Ne qui cenſus eſſet, virginem, neve mulierem ſupra quadrantem ſuorum bonorum hæredem inſtitueret, pluſue cuiquam legaret, quam ad hæredem, hæredeſve perveniret.*

Cenſus.] This word *Cenſus*, doth ſometimes ſignifie all ſuch as haue tendred the iuſt valuation of their eſtate vnto the *Cenſors*: and then *Incenſus* is oppoſite to it, ſignifying ſuch an one, as hath not tendred his eſtate or name to bee regiſtred by the *Cenſors*. But in this place, *Cenſus* is taken for ſuch a rich man, whoſe eſtate was in the *Cenſors* booke valued at one hundred thouſand *Seſterces*. (*Vid. Aſconium in Verrin.* 3.)

Supra quadrantem ſuorum bonorum.] That is; No woman ſhould be heire to more then one quarter of ſuch a rich mans goods. For the right conceiuing of this, we muſt note with [n] *Latomus*, that the whole inheritance (were it neuer ſo great) was termed *As*; and that was diuided into twelue parts, which the Lawyers called *Vnciæ*: *Duæ vnciæ dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, ſex Semiſſis, ſeptem Septunx, octo Beſſis, nouem Dodrans, decem Decunx, vndecim Deunx, Totum As, vt dixum eſt.* Againe, euery *Vncia* was divided into ſix parts, called *Sextulæ*: *Duæ ſextulæ Duellam, tres Semunciam faciunt.* ſo then according to the Lawyers (as [o] *Alexander* obſerueth) if there were one heire alone inſtituted, he was termed *Hæres in Aſſem totum inſtitutus*; if otherwiſe there were many co-heires, then it was according

n Barth. Latom. in orat. pro Cecinna.

o Alex. Gen. dier. l. 1. c. 1.

cording as the *Teſtator* did appoint. Some were *ex Deunce hæredes*, that is, Heires to eleuen parts of the goods, there being but one part beſtowed from him: ſome were *hæredes ex quadrante*, that is, Heires to one quarter of his goods: others were *Hæredes ex ſemuncia*, that is, they had the foure and twentieth part: others were *Sextula aſſerſi*, that is, they had the threeſcore & twelfth part of the whole *As*, that is, of one whole inheritance, be it more or leſſe, &c. Here we muſt vnderſtand, that there is great difference betweene theſe two phraſes, *Inſtitui hæres in totum Aſſem, & ex toto Aſſe*. For all thoſe, which were nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel Semunica*, or howſoeuer, yet were they termed *Hæredes ex toto Aſſe*, that is, they were not *Legatarij*, ſuch as receiued Legacies. Now none can be ſaid *In totum aſſem inſtitui*, but he which is the alone and ſole Heire vnto the whole.

Cap. 8.

De Vſu-capione.

Atinia lex.

Atinius made a Law, that the plea of preſcription or long poſſeſſion, ſhould not auaile in things that had beene ſtollen; but the intereſt which the right owner had in thoſe ſtolne goods, ſhould remaine perpetuall. The words of the Law are theſe: *Quod ſurreptum eſt, eius rei æterna auctoritas eſſet:* Where by p *auctoritas* is meant *ius dominij*. This crime of theft, as likewiſe of vſury, was ſo odious vnto the *Romanes*, that whoſoeuer was found guilty thereof, was condemned q *Lege quadrupli*, that is, to pay foure times as much: whence the Informers againſt ſuch, were termed, *Quadruplatores*.

Cic. Verrin. 3

p Sig. de iure Rom. l. 1. c. 11

q Fr. Syl. in Verrin. 1.

Cap. 17.

De Iudicibus, & Iudicijs.

Lex accuſatoria.

Cic. pro Mur. *Tully* mentioneth a Law termed *lex accuſatoria*, which in truth was no Law, neither was there any author thereof: but there was ſuch a receiued cuſtome amongſt the *Romanes*, that the accuſer ſhould obiect againſt the party accuſed, not onely the preſent crime then queſtioned, but all other ſcapes and faults committed long before, to the bettering of his matter: that at length this accuſatory cuſtome became in manner of a Law, and ſo was called, *Lex accuſatoria.* vid. *Franc. Syluium in orat. pro Mur.* [r] Their cuſtome alſo was to procure others to ioyne with them in their accuſation; thoſe [ſ] *Tully* calleth *Subſcriptores*, becauſe they did ſubſcribe vnto the accuſation.

r Alex. Gen. dier. l. 3. c. 5.
ſ Cic. pro Muræn.

Lex Seruilia & Sempronia.

Curio in orat. pro Scauro. Whereas *Sempronius* had preferred a Law, whereby hee tooke away the authority of ſitting in iudgement from the *Senators*, and appropriated it to the *Romane* Gentlemen; *Q. Seruilius Cæpio* being *Conſul*, did afterward preferre another Law, whereby the adminiſtration of iudgement was diuided betweene the *Senators* and the Gentlemen.

Rupilia lex.

Cic. in Ver. t Sig. de iur. Prov. l. 1. c. 5. *Rupilia lex vetabat diebus triginta ſortiri dicam.* Here we muſt note with [t] *Sigonius*, that this Law was of force only in the Prouince of *Sicilia*: alſo that it is one thing *ſcribere dicam*, that is, to enter an action, another *ſortiri dicam*, that is, by lots to chooſe the Iudges, which was 30. daies after.

Liuia lex.

Cic. de orat. lib. 3. Though by vertue of *Seruilius* his Law, the *Senators* were made capeable of the office of a Iudge, yet they were not thereby

there by equally capeable with the *Romane* Gentlemen: and therefore did *M. Livius Drusus* ordaine, that the Iudges ſhould be elected equally out of both orders, namely, three hundred out of the *Senate*, and three hundred out of the Gentry.

Plautia lex.

M. Plautius Syluanus preferred a law, that the number of Iudges ſhould be choſen not only out of the *Romane Senators* and Gentlemen, but out of the populacy alſo, namely, out of every Tribe fifteene Iudges. Cic. pro Cornel.

Aurelia lex.

L. Aurelius Cotta being *Prætor* made a law, that the Iudges ſhould be choſen out of the *Senators*, the Gentlemen, and thoſe Martiall Treaſurers or Clearkes of the band, called *Tribuni ærarij*. Cic. in Verr. ſæpe.

Pompeia lex.

Cn. Pompeius Magnus being *Conſul*, ordained, that the Iudges ſhould be elected out of the wealthieſt *Centuries*, tying the election notwithſtanding to thoſe three degrees of people, namely, *Senators*, Gentlemen, and Martiall Treaſurers; alſo he added, that the number of Iudges to examine cauſes, ſhould be ſeventy and fiue. Cic. in Piſon.

Iulia lex.

C. Iulius Cæſar ordained, that the election of Iudges ſhould be out of the *Senators* and Gentlemen onely, leauing out the Martiall Treaſures; and this *Tully* calleth, *legem Iudiciariam Cæſaris*. Cic. Phil. 1.

Antonia lex.

M. Antonius tulit legem, vt tertia iudicum decuria è Centurionibus, Antefignanis, Alaudis, Manipularibus fieret. Cic. Philip. 1. & 5.

Iudicum decuriæ:] When the L. chiefe Iuſtice had taken his oath, he choſe out ſome *ex certis ordinibus, nõ ex omni populo*, that is, out of ſuch degree and place, as the law required, to ſit in iudgement on thoſe caſes, which were termed *cauſæ publicæ*: and theſe Iudges hee afterward diuided into leſſer

numbers called *Decuriæ vid. Sigon. de iure Rom. lib. 2. c. 18.*

E Centurionibus.] *Centuriones* were Captaines ouer an hundred footmen.

Anteſignanis.] This word *Anteſignanus* hath a double acception in the *Romane* hiſtories. Sometimes *Anteſignani* doe ſignifie the third part of the *Romane* army: For all thoſe ſouldiers, that fought before the banners or enſignes, as they were called *Haſtati*, in reſpect of their weapon, ſo were they called *Anteſignani*, in reſpect of their enſignes, before which they fought. The ſecond part of the army, as they were called *Principes*, in reſpect of their proweſſe and valour; ſo were they called *Subſignani*, as fighting vnder the enſignes. The third part, as they were called *Triarij*, becauſe they fought in the third, or rereward; ſo were they called *Poſtſignani*, as fighting behind the enſignes. Where we muſt not thinke, that thoſe which were called *Anteſignani* and *Subſignani*, were altogether deſtitute of enſignes among themſelues: (for euery Maniple had his enſigne:) But the Eagle, and other chiefe enſignes, were carried by the *Subſignani*, and in reſp. & had to them, they had their names. And hence ariſeth the ſecond acception of this word, namely, that all thoſe ſouldiers of euery Maniple, which ſtood in front before their enſigne, were called *Anteſignani*, and thoſe were commonly the beſt ſouldiers in the company. See for the ſeuerall prooſes of this, *Lipſ. Milit. Rom. lib. 2. dial. 3.*

Alaudis.] *Iul. Cæſar* preſſed a legion of ſouldiers of *Gallia Tranſalpina*, all which he afterward made free of *Rome*. This legion he called *Legionem Alaudarum*, from the forme of their helmets, which did reſemble the head of the Lark, called in French *Alauda. Barthol. Latomus in Philip. 1.*

Manipularibus.] Thoſe Captaines which gouerned a Maniple of ſouldiers, were called *Manipulares. Fr. Maturantius in Phil. 1.*

Lex Cincia de donis & muneribus.

M. Cincius being protector of the Commons, *M. Cornelius*

lius Cethegus, and *P. Sempronius Tuditanus*, being *Conſuls*, preferred a law, that no man ſhould receiue gift or bribe from his client for pleading his cauſe. Of this we read in *Plautus*, and he calleth it *Legem muneralem*: alſo in *Tully, de Senect.*

Cornelia lex.

L. Cornelius Sylla preferred a law, that the chiefe Iudge of the bench, called *Iudex quæſtionis*, ſhould referre it vnto the choice of the defendant, whether hee would haue iudgement paſſed on him *Clam an Palam*, that is, (as *Sylvius* obſerueth) either by voices, or by tables. Cic. pro Cluentio.

Memnonia lex.

This law (made by *Memnius*) prouided, that no action ſhould be entred againſt thoſe, who were imployed abroad in buſineſſes for the Commonwealth. An addition vnto this law was, that whoſoeuer ſhould *calumniari*, that is, forge an accuſation againſt another, a certaine letter ſhould bee burnt in his forehead in token of infamie. This law is ſometimes called *Rex Rhemnia*. Here wee may with [u] *Fr. Sylvius* obſerue the difference of theſe three phraſes, *Calumniari*, *Prævaricari*, and *Tergiverſari*. He which doth in his accuſation forge faults neuer committed, is ſaid *Calumniari*. Hee which vndertaketh ones ſuit, and either will not vrge reaſons in the behalfe of his client, or anſwere the obiections of his aduerſary when he is able, is ſaid *Prævaricari*, that is, to play the falſe *Proctor*. He which doth deſiſt in his accuſation, and let his ſuit fall, is ſaid *Tergiverſari*. Cic. in Vatin. Cic. pro Sext. Roſcio. u Fr. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

In ijs rebus quæ mancipi ſunt, is periculum iudicij præſtare debet, qui ſe nexu obligauit, that is, if the buyer of any thing in that forme of ſale, called *Nexus*, be troubled in law, the ſeller thereof muſt ſecure him, and ſaue him harmeleſſe. Cic. pro Mur.

Mancipi ſunt.] [x] Thoſe things were termed *res Mancipi*, which were alienated from the ſeller *Nexu*, that is, by ſuch a forme of ſale as followeth. The forme was thus: At the leaſt fiue witneſſes, all *Romane* Citizens, and of full age, beſides x Fr. Sylv. in orat. pro Mur.

sides one called *Libri-pens* (from holding of a paire of ballances) should be present: and the chapman or buyer should come with a certaine brasse coine in his hand, and say (for example sake, if it were a bondslaue to be sold) *Hunc ego hominem ex iure Quiritium meum esse aio, isque mihi emptus est hoc are*; and forthwith striking the ballance with the brasse coine, he gaue it to him that made the sale. This kind of chaffering was termed *Nexus*, as wee may suppose *à nectendo*, because it did binde the seller to make good the sale: [y] sometimes it is called *Per æs & libram venditio*, because of the ceremonies vsed in it. [z] Now it is commonly called *Mancipatio*, [a] *à manus capione*, from taking that which is sold into ones hands or possession: whence the word *Mancipatus*, and *Mancipium* are vsed to signifie a bondslaue, that is in this manner sold; though sometimes *Mancipium* doth signifie the sale it selfe: whence *Cic.* vseth this phrase, *Lex Mancipij*, to signifie a clause or condition put in the sale. All things sold after this manner, were termed *Res mancipi*. [b] The word *Mancipi* being a nowne indeclineable, as *Frugi, Cordi, Huiusmodi, &c.* & from this forme of sale, the morgaging of land for the payment of mony may seeme to be called *Mancipatio fiduciaria*: He which did thus receiue the morgage or land in way of securitie, is said *accipere fiduciam*, *Cic. orat. pro L. Flacco.* Vpon which place saith *Lambinus* in his annotations. *Accipere fiduciam, est fundum, aut aliam rem soli, seu vt appellant immobilem, ab aliquo mancipare, seu accipere ea lege, vt cùm ille repetat ei remancipet.* We may coniect the reason of these ballances, why they should bee vsed in this kinde of bargaining, to be, because [c] in old time they did not bargaine by paying coined money, which was called *Æs signatum*, but by paying a certaine weight of money, whence such money was termed *Æs graue*. And hence it is, that metaphorically we translate *Pendo* and *rependo*, to pay and repay.

y Syl. ibid.

z Melanct. in orat. pro Mur. a I. Camerar. in orat. pro Muræn.

b Priscian. l. 3. vid. Fr. Syl. in orat. pro Mur.

c Alex. Gen. dier. l. 4. c. 15.

CAP.

Cap. 18.

De Maiestate.

Lex Varia.

Varius Trib. Pl. made a law, that the *Praetores Quæsto-res* should sit in iudgement vpon those, by whom the Allies of Associates had been moued to attempt warre against the *Romane* people. Cic. pro Cornel.

Iulia lex.

C. Iul. Cæsar ordained, that such as were condemned of treason, or causing vproares in the Common-wealth, should be banished. Cic. Philip. 4.

Cap. 19.

De ambitu.

THose lawes were termed *Leges de Ambitu*, which were made against vndirect or vnlawfull courses vsed in canvasses for offices.

Fabia de Ambitu.

This *Lex Fabia* restrained the number of those poore men, who because they were wont to follow vp and downe, and all the day to attend such as did stand for offices, were thence called *Sectatores*.

Acilia Calpurnia.

M. Acilius Glabrio, and *C. Calpurnius Piso* being *Consuls*, made a law, that such as were convinced of sinister and vndirect meanes vsed in their canuasses, should bee fined at a certaine summe of mony set on their heads, and they should be made both vncapable of bearing office, and vneligible into a *Senators* place. Cic. pro Muræn.

Senatus-conſultum de Ambitu.

Cic. pro Mur. *M. Tullius Cic.* and *C. Antonius* being *Conſuls*, a certaine decree was made by the *Senate*, that if ſuch as did either ſalute or attend vpon thoſe which ſtood for offices, were hired by any manner of reward; or if any publike prizes were occaſioned to be plaid; or any publike feaſts made by them, they ſhould be liable to the cenſure of *Calpurnius* his law.

Tullia lex.

M. Tullius Cic. made a law, that no man ſtanding for an office, ſhould cauſe any publique prize to bee played, within two yeares that he either had ſtood, or ſhould ſtand for an of-
Cic. pro Sext. fice, vnleſſe the day had formerly beene appointed by ſome Will. *Item*, he ordained, that *Senators* being found to haue vſed vnlawfull meanes for the attaining of any office, ſhould ſuffer ten yeares exilement. And the commonaltie offending in that point, ſhould be puniſhed with an heauier puniſhment then the law made by *Calpurnius* laid on them. An addition vnto this was, that if any being cited to his anſwere in the court for his vndirect meanes, *Si morbum excuſaret*, that is, if he did vrge his ſickneſſe for his not appearance, then ſhould he vndergoe a penaltie.

Si morbum excuſaret.] So that *Tully* here ſeemeth to cut off that libertie, which the twelue tables permitted in theſe words [*Si Iudex alterve ex litigatoribus morbo ſontico impediatur, indicijs dies diffiſus eſto.*] That is, if either Iudge, Plaintiffe, or Defendant were ſicke, they ſhould *diffindere diem, id eſt,*
a Sig. de iud. lib. 1. cap. 28. [a] *proferre & in aliud tempus reijcere*, prorogue the time of iudgement. And vnleſſe ſome might thinke, that by *morbus ſonticus* was meant ſome ſtrange diſeaſe, *Sigonius* inferreth, that euery diſeaſe is termed *Sonticus*, which hindreth vs in the performance of our buſineſſes: *Sontes enim nocentes dicunt.*

Licinia de Sodalitijs.

Cic. pro Plancio. *M. Licinius Craſſus* being *Conſul*, perſwaded, *vt in Sodalitijs Iudices ab accuſatore ex tribubus ederentur.*

Sodalitia,

Sodalitia.] In the latter times the Romanes in their canvaſſes would gather together a certaine company of their ſide or faction to follow them, terming them *Sodales*: and theſe *Sodales* would as it were by violence force the people to ſuffrage with them, whence the violence offered by them was termed *Sodalitia. Sig. de Iud. lib. 2. cap. 30.*

Iudices ab accuſatore ederentur ex tribubus.] We may reade of three ſorts of Iudges among the Romanes, or rather of three diuers kinds of elections of their Iudges. For either they were *Lecti ſortitione*, of which more may be ſeene in one of the lawes following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiffe ſhould chooſe them all, and then were they called *Iudices editiij*; or the plaintiffe ſhould chooſe one halfe, and the defendant the other, and then were they called *Iudices alterni. Melanct hon in Cic pro Muren.*

Cap. 20.

De pecunijs repetundis.

Firſt, touching the word *Repetundæ*, *Sigonius* ſaith, that ſuch money was termed *Pecuniæ repetundæ, quæ poſſent repeti*, which might by the courſe of law be recouered; namely, ſuch money as any Magiſtrate, Iudge, or publike officer, did either in the Prouinces, or in the Citie, receiue as a bribe from the Allies and Aſſociates, or from the Romane Citizens for the adminiſtration of iuſtice, or the execution of any publique dutie: and this kinde of bribe they termed *Pecunias repetundas, pecuniam ablatam, captam, coactam, conciliatam, averſam* (*Cic. in Verrinis.*) But as it ſeemeth very probable, theſe lawes againſt bribery were firſt occaſioned, for the eaſe and reliefe of the Romane Prouinces and Allies, called in Latine *Socij*, who were much abuſed in this kind by the Province *Conſuls*, *Prætors*, and *Quæſtors*, &c. Whence *Tul-*

ly calleth this law againſt bribery, *Legem Socialem.* Here alſo may we note, that [d] *Tully* vſeth this phraſe, *Pecuniam occupare* for *Fœnerari*, to put money to vſe. *Occupare pecuniam eſt collocare, inquit Nonius, id eſt, Fœnori dare. Vid. Lambin. annot. in Cic. orat pro L. Flacco.*

d Cip. in orat. pro L. Flacco.

Iunia lex.

M. Iunius Pennus Trib. Pl. preferred a law, that to ſuch as were convinced of bribery, *Præter litis æſtimationem, exilium etiam damnato eſſet irrogatum.*

Litis æſtimationem.] Here we will conſider the difference of theſe three phraſes, *Litis conteſtatio, Litis redemptio, & Litis æſtimatio.* [e] The firſt ſignifieth the producing of witneſſes, when both ſides ſhall openly in the Court vſe this forme of words. *Teſtes eſtote*: which was not done, *antequam ſatisdationes factæ eſſent*, before ſureties were put in by the one, that he would *Iudicatum ſolvere*, pay that which he was condemned: by the other, that he would *rem ratam habere*, that is, ſtand to the verdict or ſentence in the Court. The ſecond phraſe ſignifieth a compoſition or an argument agreed vpon by both ſides betweene themſelues: [f] *Redimere lites eſt pactionem facere; qui enim paciſcitur, facit vt lis non ſit.* The third is, when the partie which is caſt in the ſuit is adiudged to pay the mony, or the worth of the goods called in queſtion, together with the coſt and dammages in law vnto his aduerſary: [g] *Litem æſtimare eſt pecuniam, de qua lis fuit, & propter quam condemnatus eſt reus, in ſummam redigere, quæ de bonis eius redigatur.* [h] And *Æſtimare litem eſt, quod vulgò dicitur, Taxare litis expenſas.*

e Sig. de iud. lib. 1. cap. 27.

f Fr. Sylv. in orat. pro Q. Roſcio.

g Fr. Sylv. in orat. pro Cluentio.

h I Tiſſin. in orat. pro Rabirio.

Acilia lex.

M. Acilius Glabrio made a law, that ſuch as were accuſed of bribery, *Ne q. ampliari, neq. comperendinari poſſent*, that is, they muſt out of hand receiue iudgement.

For the right vnderſtanding of theſe two words [*Ampliari & Comperendinari*] we muſt conſider the ancient cuſtomes and ceremonies vſed by the *Romanes* in handling their ſuites of

of Law. First, there was *In ius vocatio*, that is, a citation of one into the Court. Secondly, *postulatio*, that is, a requeſt put vp vnto the *Prætor*, that it might be lawfull for the Plaintiffe to enter his Action againſt the Defendant; whence *Poſtulare aliquem de hoc vel illo crimine*, is to accuſe one of this or that crime. Thirdly, *Nominis delatio*, that is, the taking of the Defendants name into the Court-booke: and this was termed, *Intendere actionem, vel Litem*; and *Diem alicui dicere*, that is, to enter an Action againſt one. In the ſecond of theſe Acts, namely, when requeſt was made by the Plaintiffe vnto the *Prætor*, that he might enter his Action againſt the Defendant; then the Plantiffe did, *Vadari reum*, that is, demand ſureties or bale from the Defendant, that he would appeare vpon the day appointed by the *Prætor*. And the Plaintiffe did againe, *Promittere Vadimonium*, enter Bond alſo for his owne appearance vpon the ſame day, which commonly was the third day following, called properly *Dies perendinus*, and ſometimes, *dies tertius* ſimply, as it appeareth by thoſe capitall letters. I. D. T. S. P. vſed to be written in their Actions: which letters[i] *Probus* expoundeth thus: *In diem tertium ſine perendinum.* So that then properly, *lis vel reus dicitur comperendinari*, when the giuing of ſentence is deferred till the third day. Moreouer, before the *Prætor* would ſuffer the Action to be entered, he would ſweare the Plaintiffe, that he did not accuſe the Defendant, *calumniandi cauſa*, that is, falſely or malicioufly, and this kinde of ſwearing was termed, *Calumniam iurare, calumniam deiurare*, and *In litem iurare*. Now if either party were abſent from the Court vpon the third day, except he were ſicke, hee was caſt in his ſuit, and the *Prætor* did grant an execution called, *Edictum peremtorium*, whereby hee gaue authority to his adverſary to ſeaze vpon his goods. Sometimes there were two or three Edicts in manner of Proceſſe or Writs, before the *Edictum peremtorium* could be obtained; ſometimes it was granted at the firſt, and then was it [k] called, *vnum pro omnibus*

[i] Sig. de iud. lib. 1. c. 27.

[k] Sig. eiuſd. l. cap. 28.

[1] Siz. eiusd. l. cap. 21.

bus. [1] Now if both parties came into the Court and did appeare, then were they ſaid *ſe ſtitiſſe*: ſo that this word *ſiſto* amongſt the Lawyers did ſignifie to ſhew ones ſelfe in the Court. Vpon the third day, the *Prætor* alſo with the whole Bench of Iudges did meete, and the *Iudex Queſtionis* (whom *Roſinus* maketh a diſtinct Officer differing from the *Prætor*) did cauſe all the *Select* Iudges to pull out certaine lots, out of an vrne or pitcher brought thither for that purpoſe, and thoſe Iudges vpon whom the lot fell were to ſit in Iudgement. This was called, *Sortitio Iudicum.* Now if either the Planitiffe or Defendant did ſuſpect any of thoſe, that they would be partiall, then might he except againſt them, and that was called, *Iudicum retectio*: Then the *Iudex quæſtionis* would in manner aforeſaid chooſe other Iudges in their places, and that was called *ſubſortitio.* Which being ended, thoſe Iudges which were thus choſen receiued every one of them from the *Prætor* three tables, the one hauing this letter A. written in it, betokening *Abſolution*: whence *Tully* calleth it, *literam ſalutarem*: The other hauing this letter *C.* written in it, betokening *Condemnation*: The third hauing theſe two letters *N.L.* betokening *Non liquet.* After the receipt of the tables, then did the *Prætor mittere vel dimittere iudices in conſilium*, that is, ſend them to caſt their tables into the vrnes, there beeing three vrnes or little coffers purpoſely provided; the one for thoſe Iudges which were choſen out of the *Senators*, the other for thoſe that were choſen out of the Gentlemen; the third for thoſe which were choſen out of the *Martiall* Treaſurers. Now if they did caſt the firſt ſort of tables into the vrnes, then the *Prætor* pronounced the Defendant abſolued; if the ſecond, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoſcendum*, that they muſt haue longer time to enquire: and this is properly termed, *Ampliatio*, a Repriue; and in ſuch manner it is ſaid, *quod lis vel res dicitur Ampliari.* The prooſes for this manner of proceeding in Law, may be collected out of *Roſinus lib. antiq. 9. cap.*

cap. 19,20.& 24. and out of *Sigonius*, according to the Marginall quotations. The like cuſtome ſeemeth to haue beene receiued alſo among the *Gracians*, who had three letters of their Alphabet, anſwerable to thoſe among the *Romanes*; Θ was *damnationis ſymbolum*, which occaſioned that of *Perſius*,

Et potis es nigrum vitio præfigere theta.

T; a token of abſolution; A of ampliation. *Vid. Eraſm. Adag.* Θ *præfigere.* Some as it appeareth by *Eraſm.* giue a reaſon of Θ, becauſe it reſembleth the heart of man wounded in the middeſt with a dart: others becauſe it is the firſt letter of θάνατος, ſignifying death, according to that,

Infælix multis theta eſt, mihi littera fælix.
Si θάνατον ſcribit, ſcribit & illa mori.

Cornelius Sylla being *Dictator* ordained a Law, that the chiefe Iudge called *Iudex Queſtionis*, with the whole Bench of Iudges, ſhould ſit vpon life and death on ſuch as had killed a man; on ſuch as had with an euill intent ſet any place on fire; on ſuch as ſhould walke with any weapon either to kill or rob a man; on ſuch as had either made, bought, ſold, had, or giuen, any poyſon, thereby to kill a man; on any Magiſtrate, whoſoeuer ſhould cauſe any conventicle or ſecret aſſemblies, or ſhould giue their conſent to the ſuborning of any man to accuſe another falſely, that thereby he being innocent might be oppreſſed and condemned by publique iudgement. Moreouer, *De eius capite quærito, &c.* that is, Let them ſit vpon life and death on that man, which ſhall beare falſe witneſſe, that another might bee condemned to death; on that Magiſtrate or chiefe Iudge, which ſhall take a bribe to condemne another to death. Cic. pro Cluent.

Parricidium.] This word doth properly ſignifie onely a murthering of ones parents or kinsfolke, but in *Numa Pomilius* his time, it ſignified as much as *homicidium*, that is, any man-ſlaughter whatſoeuer.

CAP.

Cap. 21.

Lex 12. *tabularum de Vindicijs.*

Si qui in iure manum conserunt, vtreiq; superstitibus præsentibus vindicias sumunto.

Si qui in iure.] Here we must note, that the custome among the *Romanes* in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prætor* did go vnto the house, field, or the thing questioned, being accompanied thither with the Plaintiffe and the Defendant, together with others whom the Law required to be present as witnesses. This place whereso-euer it were, though in the open field, during the time that the *Prætor* sate there to giue iudgement, was termed in Latine, *Ius*, in English, a **Court**. Where in the presence of the *Prætor* and the witnesses, the Plaintiffe and Defendant did *manum conserere*, that is, as [m] *Camerarius* supposeth, argue and dispute the case *pro* and *con*, in a solemne forme of words prescribed them by the Law. For this phrase is borrowed by the Lawyers from the Art military, where souldiers are said *manum vel manu conserere*, when they fight hand to hand. [*Vtreiq; superstitibus præsentibus*, that is, let both parties in the presence of witnesses (so [n] *Festus* expoundeth *superstites*) [*Vindicias sumunto*] that is, let them take a turffe of the ground, for so [o] *Sigonius* expoundeth *Vindiciæ*; though properly (as he obserueth) it signified the possession of a thing, rather then the thing possessed. This turffe being taken vp, was carried to the *Prætor*, and iudgement was giuen vpon that, as vpon the whole. I do presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turffe was presented vnto the *Prætor*, vpon which as vpon the whole he gaue iudgement. In processe of time, the *Prætor* by reason of the multitude of other imployments, not finding conuenient leasure to review every particular

m I. Camerar. pro L. Muræn.

n Rosin. ant. lib. 8. c. 29.

o Sig. de iud. l. 1. c. 21. *Vindicam ferre est sententiâ decreto que rem obtinere: Dicebat Vindicias iudex ferebat Vindicias qui rem obtinebat. Turneb. ad* 7. *lib.* 13. 27.

cular ground, or houſe called in queſtion, p it was ordained contrary to the twelue tables, that the Plaintiffe in ſuch caſes ſhould come into the Court, and challenge the Defendant in this forme of words, *Exiure manu conſertum te voco*, that is, I challenge thee to go out of the Court into the field, to vſe one towards the other that ſolemne forme of words which the Law enioyneth. Then did the Defendant either yeeld the poſſeſſion of the ground, or elſe he did reply, *Vnde tu me ex iure manu conſertum vocaſti, inde ibi ego te revoco.* Then did they both taking witneſſes with them, without the company of the *Prætor*, *inire viam*, that is, goe into the ground, bringing back a Turffe thereof, vpon the which (as in manner ſhewne) the *Prætor* gaue iudgement at their returne.

p A. Gell. 1. 20. Attic. l. 20. cap. 10.

For the better vnderſtanding of this that hath beene ſpoken in the explanation of this Law, wee muſt note, that the Action termed *Vindicatio* was twofold: either the ſuit for the poſſeſſion of a thing, or a ſuit for the Lordſhip or right owning thereof. The poſſeſſion of any thing was recouered, either by a true and reall violence, or by a ſeeming violence. This ſeeming violence was twofold, either it was, *manus conſertio*, which was ſhewne immediately before; or *Moribus deductio*, that is, a cuſtomary leading the vnlawfull *poſſeſſor* out of the ground thereby to enter poſſeſſion. *Vis ſimulata altera à lege, altera emanavit à moribus*; ſaith q *Sigon.* The firſt of theſe did ariſe from the *Romane* Law, the other from a cuſtome amongſt the *Romans*: the firſt of theſe is to be ſeene in *Tully* his Oration *pro Murena*, the other *pro Cæcinnâ*. To theſe *Sigonius* addeth a third kinde of ſeeming violence; which how iuſtly he hath termed a violence, I ſhall leaue to the indifferent iudgement of the vnpartiall reader. The right of the Lordſhip or owning any thing was ſued for in this manner: The Plaintiffe did queſtion with the Defendant thus; firſt *An auctor eſſet?* That is, whether he had not couertly made away the poſſeſſion of the thing, thereby to fruſtrate the Action. Secondly, *An ſponderet*, that is, whether he would put in a

q de iudic. lib. 1. cap. 21.

gage of money in the Court, which hee would forfeit if he were caſt; which being done, the Plaintiffe did alſo vpon the demand of the Defendant, put in a gage of money to be forfeited, if he preuailed not in his ſuit. This gage of money was termed [r] *ſacramentum*; and in this ſenſe, *Tully, pro Milone,* ſaith, *Iniuſtis vindicijs, & ſacramentis alienos fundos petunt,* that is, they ſue for other mens grounds, with vniuſt Actions and gages of money. Thirdly, *An ſatiſdaret*, that is, whether he would put in ſurety, that during the triall in Law, the ground or houſe called in queſtion ſhould not be impaired. The ſolemne forme of words vſed in the firſt demand, is thus to be ſeene in [ſ] *Tully, Quãdo in iure te conſpicio, poſtulo anne ſies auctor?* If the Defendant held his peace, then was he adiudged to pay all coſts and damages; if he profeſſed himſelfe the preſent *poſſeſſor*, then did the Plaintiffe proceed in manner as hee ſhould for the poſſeſſion thereof; if he denied it, then did the *Prætor* ſay vnto the Plaintiffe, *Quando negat, ſacramento quærito*: Thereupon ſaid the Plaintiffe to the Defendant, *Quando negas, te ſacramento quinquagenario provoco: ſpondes ne te ſoluturum quinquaginta aſſes, ſi auctor ſis?* To whom the Defendant replied, *ſpondeo quinquaginta aſſes ſi auctor ſim. Tu verò ſpondes ne idem, ni ſim?* The Plaintiffe anſwered, *Ego quoq; ſpondeo.* Now in this kinde of ſtipulation, the Plaintiffe was ſaid, *ſponſione & ſacramento provocare, ſacramento rogare quærere, & ſtipulari*, that is, to challenge one to pawne a ſumme of money for the triall of a ſuit in Law. The Defendant was ſaid *contendere ex provocatione, contendere ſacramento, & reſtipulari*, that is, to be ſued in ſuch manner. This money was termed *ſacramentum*, [t] becauſe when it was forfeited, it was beſtowed *in rebus ſacris & divinis*. Touching the laſt Interrogatory, I reade no ſet forme of words, but by the word *ſatis datio*, the intelligent reader may coniect, that it did ſomewhat ſymbolize with our Engliſh cuſtome of putting in bale. [u] This putting in of bale was twofold. The one was *ſatiſdare indicatum ſolui*, to bind himſelfe to pay what ſhould be

r Sig. de iud. lib. 1, cap. 21.

ſ Cic. orat. pro Muræna & pro Cæcina.

t Sig. de iud. lib. 1, c. 21.

u Sig. de iud. l. 1. c. 27.

be adiudged. The ſecond, was *ſatiſdare rem ratam habere*, To become bound that he would ſtand to the virdict and iudgement of the Court. The firſt of theſe bonds was required to be performed by the Defendant: The ſecond by the Plaintiffes Proctor or Atturney. But if the Action were an Action of debt, then the Proctors alone became bound; the Plaintiffes Proctor, that hee would ſtand to the Iudgement; the Defendants Proctor, that the debt adiudged ſhould be payd.

Lib. 4.

Rites and Cuſtomes obſerued by the Romanes in their warres.

De Militiâ.

TOuching the Art *Military* vſed among the *Romans*, it will not be impertinent to conſider, firſt how war was proclaimed, and peace eſtabliſhed by them: Then to march on to the deſcription of their Bands, or Companies, where we may firſt obſerue the Office of their chiefe Captaine, and their ſubordinate leaders, together with the ſeuerall Wards into which the vniuerſall Army was diuided. After this we may deſcend vnto the diuerſitie of puniſhments vſed towards Captiues, and likewiſe towards refractarious and diſobedient ſouldiers: Adding as a *Corollary*, or *Period* to our whole diſcourſe, the ſeuerall rewards, which the L. Generall with his ſouldiers after the performance of certaine noble atchieuments receiued.

CAP.

CAP. I.

De ritu Romani obſeruârunt vel fœdus ferientes, vel bellum inferentes: & de triplici ratione conſcribendi milites.

VVE may remember that it hath been already ſhewne, that both the proclaiming of warre and peace belonged vnto a certaine order of *Romane* Prieſts, called *Fœciales*, whom by reaſon of their Office I Engliſhed, **Heralds at armes**. The rites and ceremonies which they vſed, when they proclaimed peace, were as followeth, *viz.* One of thoſe Heralds hauing his commiſſion from the State (after that both ſides had agreed vpon the truce and league now to bee concluded) tooke vp a ſtone in his hand, [a] vſing this ſolemne forme of words: *Si rectè & ſine dolo malo hoc fœdus atque hoc iusiurandum facio, dij mihi cuncta felicia præſtent; ſin aliter aut ago aut cogito (cæteris omnibus ſalvis) in proprijs patrijs, in proprijs legibus, in proprijs laribus, in proprijs templis, in proprijs ſepulchris ſolus ego peream, vt hic lapis è manibus decidet*, and therewithall hee caſt the ſtone out of his hand: which manner of oath was termed *Iurare Iovem lapidem*, or *per Iovem lapidem*; that is, as it hath been rendred by *Feſtus*, to ſweare by *Iupiter*, holding a ſtone in ones hand. [b] Many ſay, that hee did caſt that ſtone at an hog or porker, brought thither purpoſely, adding theſe words to the former: *Si prior populus Romanus deſcexit publico conſilio, tum ille Dieſpiter populum Rom. ſic ferito, vt ego hunc porcum hodiè feriam*: alluding to which cuſtome *Virgil* ſaith,

Et cæſa iungebant fœdera porcâ.

[a] Polyb. vid. Roſin. antiq. l. 10. c. 2.

[b] Sig. de iure Ital. l. 1. c. 1.

The manner of denouncing warre hath beene already ſhewne. The act of ſeruice in warre was termed *Mereri ſub hoc vel illo duce*; that is, to ſerue in warre vnder this or that Captaine: and whatſoeuer ſouldier was diſcharged of his ſer-

vice, as hauing ſerued out his whole time, he was called *miles emeritus*, and by [c] *Tully*, ſuch an one is ſaid *ſtipendia confeciſſe*. [d] *Seruius* hath obſerued, that the Romane ſouldiers were preſſed three manner of waies: *per Sacramentum, Coniurationem, & Euocationem.* But [e] *Lipſius* cenſureth him for the amiſſe explanation of the laſt member. Therefore the indifferent Reader ſhall giue me leaue to borrow the termes from *Seruius*; but the explanation of them partly from *Seruius*, and partly from *Lipſius* in the places now quoted. Ordinarily ſouldiers at their preſſe did each ſeuerally take their oath not to forſake their Captaine or Country: and this oath was called *Sacramentum militare.* The words thereof are rendred by [f] *Polybius* thus: *Obtemperaturus ſum, & facturus quicquid mandabitur ab imperatoribus, iuxta vires*; and thoſe were termed *Milites per ſacramentum.* [g] This ſort of ſouldiers were vpon appointed dayes, as it were of publique Muſter, elected, and choſen by the military *Tribunes* vnder the *Conſuls*: the aſſignement of the day did chiefly belong vnto the *Conſuls*, at which time if any ſouldier withdrew himſelfe, and did not appeare, he was ſeuerely puniſhed, ſometimes by impriſonment, ſometimes by confiſcation of his goods, ſometimes by being ſold for a bondſlaue. Vpon extraordinary occaſions (as when tumults or commotions did cauſe any ſuſpition of imminent danger) the chiefe leader of the ſouldiers did goe vnto the *Capitoll*, and bring forth two banners or flagges, the one red, called therefore *Vexillum Roſeum*, vnto which the footmen repaired; the other sky-coloured, called therefore *Cæruleum*, which the horſemen followed. The reaſon why the horſemens banner was sky-coloured, is [h] rendred thus, becauſe it did moſt reſemble the colour of the ſea, which colour they deemed moſt acceptable to *Neptune*, who was both the God of the ſea, and the firſt author of horſes. Now becauſe the ſudden danger would not yeeld ſo much time, that they might ſeuerally be ſworne, therefore did they take their oath in common altogether, onely one chiefe ſouldier throughout

c Orat pro lege Manil.
d Serv. l. 2. & 7. Æneid.
e Lipſ. de milit. Rom. l. 1. dial. 8.
f Vid. Lipſ. de milit. Rom. l. 1 dial. 6.
g Lipſ. de mil. Rom. l. 1. dial. 4.
h Serv. Æn. lib. 8.

throughout a whole legion, tooke his oath at large, and in expreſſe words,[i] the reſt followed in order one by one, ſaying καθάπερ ὁ πρῶτος, that is, that he ſwore the ſame as the firſt. If the *Tribune* diſtruſted his ſouldiers fidelitie, then would hee ſweare them every one ſeuerally in termes at large. And thence were they called *Milites per coniurationem*; as likewiſe *Milites ſubitarij*, in reſpect of their ſudden preſſe. The third member may alſo be admitted, if we with * *Lipſius* vnderſtand it in its true ſenſe, namely, for thoſe ſouldiers who by the L. Generall were added vnto the body of their army; he having authority to call out ſuch other ſouldiers, who for their long ſeruice were diſcharged from giuing in their names at a muſter. And theſe are generally by all Authors termed *Milites evocati*; and *Lipſius* deemeth them all one; with thoſe whom *Seruius* calleth *Milites per evocationem*. The ſouldiers being thus preſſed, if they purpoſed to make warre vpon their enemies, then did the L. Generall ſummon them to prepare themſelues by a ſound of Trumpets; and this was termed *Claſſicum canere, à calando*, which ſignifieth to call. Which being done, a skarlet banner was hanged out at the L. Generall his pauilion: from which ceremony I thinke that that common adage did firſt ariſe, *Conferre ſigna, & Collatis ſignis pugnare*, to ioyne battle. Immediatly vpon this they did *Barritum tollere*, make a great ſhout or noyſe with their voices, to the greater terror of their enemies: and that the noyſe might be the greater, they did *Arma concutere*, ruſtle together with their armour, and claſh their ſwords. Theſe foure ceremonies are to bee ſeene more at large in [k] *Lipſius*. Vnto which we may adde the fift, obſerued by [l] *Fr. Sylvius*; namely, that at the remouing of their campe, they did *conclamare vaſa*, giue a great ſhout or cry, in token that the ſouldiers ſhould truſſe vp their bag and baggage: and hence it is, that [m] *Plautus* vſeth this phraſe, *Colligatis vaſis*, to ſignifie as much as *paratè*, or *expeditè*. Now that they might be the readier for battle, they did gird (as I ſuppoſe) their ſouldiers coates cloſe vn-

to

i Lipſ. de mil. lib. 1. dial. 6.

* Lipſ. de mil. Rom. lib. 1. dial. 8.

k Lib. 4. de milit. Rom. dial. 11. & 12.

l In ep. viror. illuſt. l. 4. ep. 1.

m Plaut. in Pſeudolo.

to them: and a ſouldier thus girt was called *Cinctutus*, that is, (ſaith [n] *Pighius*) *Cinctu tutus.* [o] *Inde Diſcinctos ignauos, & militiæ minimè aptos putârunt; Præcinctos verò fortes & ſtrenuos.* Hence alſo is that prouerbiall ſpeech, *In præcinctu ſtare*, or *Viuere*, To be in a readineſſe continually.

Non pudet ad morem diſcincti viuere Nacca? Perſ. Sat. 3.

n Pigh. in ſua præf. ad lib. 1. ſeptim.

o Alex. Gen. die. l. 1. c. 20.

Cap. 2.

De Legione, Auxilijs, & legionis partibus.

THE *Romane* forces were in old time divided into two ſeuerall parts; namely, *Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were ſuch forces as the neighbour and confederate Countries did ſend vnto the *Romanes*. The Legions were taken out of the body of the *Romanes*. [p] *Legio à delegendo dicta eſt*, from the choice and ſelecting of ſouldiers. [q] *Romulus* is ſaid to haue beene the firſt Author of theſe Legions, making euery Legion to containe three thouſand footmen, and three hundred horſemen, [r] one thouſand footmen, and one hundred horſemen, being taken out of each Nationall Tribe. Afterward it was augmented by *Romulus* himſelfe into foure thouſand footmen, [s] whence it was called *Quadrata legio*. And in proceſſe of time, a Legion increaſed vnto the number of ſix thouſand: which number it ſeldome or neuer exceeded. (as it appeareth by *Sigon.* in the place now quoted.) Now [t] none could bee ordinarily regiſtred for a ſouldier vntill the ſeuenteenth yeere of his age, [u] at which his firſt admiſſion he was termed, *Tyro*, a freſh-water ſouldier: and hence figuratiuely, *Tyrocinium* hath not beene tranſlated onely the firſt entrance into warre, but alſo the initiation or firſt entrance into any Art or Science whatſoeuer. After hee had ſerued many yeeres, then was hee termed *Veteranus*, an old beaten ſouldier. [x] The *Romane* Legion was diuided *In pedites & equites*, there being

p Plutarch. in Romulo.

q Roſin. ant. lib. 10. cap 4.

r Sig. de iure Rom. l. 1. c. 15

s Sigon. ib.

t Alex. Gen. dier. l. 1. 20.

u Pancirol li. rerum deperdit. cap. de habit. & veſt. veter.

x Sig. de iure Rom. l. 2. c. 15

being commonly for euery thouſand footmen an hundred horſemen. *Pedites diſtributi erant in Cohortes; Cohortes in Manipulos; Manipuli in Centurias: Equites diſtributi erant in Turmas; Turma in Decurias.* The word *Cohors* doth ſignifie that part of ground, which is commonly encloſed before the gate of an houſe, [y] which from the ſame word wee call a **Court**: and [z] *Varro* giueth this reaſon of the metaphor: As in a farme houſe (ſaith he) many out-buildings ioyned together make one incloſure: ſo *Cohors* conſiſteth of ſeuerall maniples ioyned together in one body. It is manifeſt (ſaith [a] *Alexander*) that the Romanes in ancient time did very ſeldome, yea, never (except in great neceſſitie) inroll into their vniuerſall armie aboue foure legions: and in an ordinary legion, which he termeth *Legionem iuſtam*, ten *Cohortes*; every *Cohors* containing three maniples, every maniple two Centuries, every Centurie an hundred ſouldiers: whence they from *Centum* were called *Centuria*, a centurie. [b] Theſe centuries were ſometimes diuided into leſſer numbers, called *Contubernia*; every *Contubernium*, containing ten ſouldiers beſides their captaine, [c] which was called *Decanus*, and *Caput Contuberny*. Where we muſt obſerue, that *Contubernium* doth ſignifie as well the pauilion or lodging it ſelfe, as the ſouldiers lodging therein: and it may be ſo called *quaſi Contabernium*, from *Taberna* ſignifying any ſlight lodging made of boards. Thoſe that ruled ouer a thouſand footmen, we may in Engliſh call **Seriants maior**. They called them *Tribuni militum*. Thoſe that gouerned ouer the Centuries, were called by them *Centuriones*, by vs in Engliſh, **Centurions**: and they had their inferior officers vnder them, which were called *Tergiductores*, or *Extremi agminis ductores*. [d] Their office was to ouerſee and looke vnto thoſe of the campe which were ſick, who commonly came behind the armie. *Quaſi extremum agmen, & tergum aciei.* The horſemen were diuided into ſeuerall troopes called *Turma*, every *Turma* containing thirtie horſemen. Againe, every *Turma* was ſubdiuided into three leſſe companies called *Decuria*; every

y Edmunds in his obſeru. vpon Cæſars Comment. lib. 2. c. 3.

z Varro lib. 3. de re ruſtica.

a Alex. Gendier. l. 1.

b Varro vid. Roſin ant. Rom. l. 10. c. 5.

c Roſin. ibid.

d Veget. vid. Roſin. ant. Rom. l. 10. c. 7.

Decuria containing ten horſemen: whence their captaine was called *Decurio*, and the Captaines ouer the greater troopes, namely, ouer the ſeuerall wings of the horſemen, were called *Equitum præfecti*. Now the chiefe Gouernour ouer the vniuerſall army, was called commonly *Imperator*: we in Engliſh call him a L. **Generall**. His Lieutenant, or L. Deputie was called *Legatus*, [e] who in old time was ſent *non tam ad imperandum, quàm ad conſulendum imperatori*. This word *Imperator* in the *Romane* hiſtories hath a threefold acception. Firſt, it is taken for him, who by commiſſion from the State, hath the managing of an army, being the ſame that *Prætor* was in ancient time: and in this ſenſe it hath affinitie with the office of our L. Generall. Secondly, for ſuch a L. Generall, who by his proweſſe hauing put [f] one thouſand of his enemies to the ſword, was both by his ſouldiers ſaluted, and the Senate ſtiled by the name of *Imperator*: But if hee had ſlaine leſſe then one thouſand, he was not thought worthy of this ſolemne ſalutation by that name. Laſtly, it was taken for a ſoueraigne Prince, King, or Monarch, in which ſenſe it was the *Prænomen* of all the Romane Emperours from *Iulius Cæſar* forward. Now becauſe the ſouldiers in a Legion muſt of neceſſitie differ much in eſtate, age, and experience, ſome being welthier, elder, and of more experience then others; hence was it requiſite alſo, that there ſhould be a diſtinction of places in their armies, according to the deſert and worth of each ſeuerall perſon. We are therefore likewiſe to vnderſtand, [g] that the *Conſuls* euery yeare made a generall muſter: at which time the militarie Tribunes choſe out the youngeſt and pooreſt of all the reſt, and called them by the name of *Velites*. Their place in regard of the other ſouldiers, was baſe and diſhonourable, not onely becauſe they fought a farre off, and were lightly armed; but alſo becauſe they were commonly expoſed to their enemies, as forelorne hopes. According to [h] *Lipſius*, theſe *Velites* were commonly placed either *In Fronte, Vijs*, or *Cornibus*. Firſt, in the Front of the army: Secondly, in

e Lipſ. de mil. Rom. lib. 2. dial. 10.

f Barth. Latom. in Phil. orat. 14.

g Lipſ. de mil. Rom. l. 1. dial. 3.

h Lipſ. de mil. Rom. lib. 4. dial. 3.

in the diſtances or ſpaces betweene the ſeuerall Maniples: thirdly, in *Cornibus*, that is, in the wings of the battle: not that the wings at any time conſiſted of thoſe *Velites*, for that was the *Socij* and Auxiliary forces; but either the ſpaces in the wings were filled vp by thoſe *Velites*, or elſe they might obtaine a promiſcuous place among the e forrai ers. Notwithſtanding, they did like ſcouts run two and fro, caſting out their darts (as occaſion was offered) and ſo retire: whence when a man doth leape from one thing to another in his talke, we ſay he doth *Agere velitatim*. Hauing choſen out a competent number of theſe ſcoutes they proceeded to the choiſe of them, which they called *Haſtati*, that is, Pike-men: foraſmuch as they fought with a kind of iaueling, which the Romanes called *Haſta*. Theſe Pikemen fought in the firſt part or forefront of the maine army. The third choiſe which they made, was of the ſtrongeſt and higheſt bodied men, who for the prime of their age were called *Principes*: and hence was the ſecond place or ward in the maine army, called *Principia*, according to [i] *Thraſo* his ſpeech, *Ego ero poſt principia*, that is, I wil follow the *Principes*, thereby chuſing to himſelf the beſt and ſafeſt place. The laſt ſort of ſouldiers, which ſtood in the third place or rereward, were called *Triarij*. They were of all, the moſt approued, and the very laſt helpe and refuge; ſo that if they failed, all was loſt: and hence ariſeth that forme of ſpeech, *Ad Triarios ventum eſt*, [k] whereby we ſignifie, that a thing is come to the laſt puſh. As I ſuppoſe, the weapon, wherewith theſe *Triarij* fought, was a dart with yron faſtned at the end of it, called in Latine *Pilum*. The reaſons of this my coniecture are theſe: firſt, becauſe the firſt century of theſe *Triarij* was called *Primum Pilum*, and their centurion *Primopilus*, and *Primipilus*, and *Primus centurio*, becauſe hee was the chiefe Centurion in a whole Legion, as hauing the charge of the chiefe Banner, called the Eagle: [l] whence *Aquila* is ſometimes vſed to ſignifie *Primopilatum*, the office and place of the *Primopilus*. The ſecond Century was called *ſecundum*

[i] Terent. Eun. Act 4. Scen. 7.

[k] Alex. Gen. dier. l. 5. c. 15.

[l] Lipſ. de mil. Rom. lib. 2. dial. 8.

pilum, and their Centurion *Secundipilus*, *&c.* Secondly, they called the *Principes*, which marched in the battle immediatly before these *Triarij*, *Antepilanos*: which argueth, that those souldiers, which followed next should be the *Milites Pilani*; and by consequence their weapon should bee that kind of dart, which they called *pilum*. Their manner of embattelling was divers. Sometimes they would make a winged army, so that the maine body thereof should bee in the middle, and on each side a lesser company. The maine body wee in English call the **Hauntgard**, and the two lesser companies wee call **Wings**; as likewise in *Latine* they called them *Alas acici*, and *dextrum vel sinistrum cornu*. [m] *Pancirollus* calleth them *Vexillationes*, because there fought no more in either wing, then belonged to one banner, called in Latine *Vexillum*. The governours of these wings hee calleth *Alarum Præfectos*. Sometimes they embatled so, that the forefront of the Armie being small, it was enlarged bigger and bigger backward in manner of a triangle. By [n] *Lipsius* it is demonstrated vnto vs vnder the forme of the Greeke letter Δ. He in the same place calleth it *caput porcinum, quia velut fodit & ruit invadendo*. Commonly it was called *Cuneus militum*, the metaphor being borrowed not only from the resemblãce it had with a wedge, but also from the vse of a wedge: for they never embattled in that forme, vnlesse it was to breake through their enemies, their piercing angle being thicke compacted with targets. Sometimes they did in a quite contrary manner enlarge their army in the forefront, making it to end in an angle: and [o] this they called *Forfex* and *Forceps militum*. Sometimes their forme of embatling was circular, and then was it called *Orbis vel globus militum*. The banner or flagge was properly called *Vexillum*, being a diminutiue of *Velum*. It was also called [p] *Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a **band** of souldiers: as *Romulius* called those that fought *sub eodem manipulo fœni* (an handfull of hay being vsed at that time insteed of a flagge) *Manipulum militum*. *Ovid.* *Pertica*

m Pancir. in notit or ent. & occident. imper. c. 32.

n Lipsi. milit. Rom. lib. 4. dial. 7.

o Lipsi. milit. Rom. lib. 4. dial. 7.

p Festus vid. Panc. in not. orient. & occident. imp. cap. 32.

Pertica ſuſpenſos protabat longa maniplos,
Vnde maniplaris nomina miles habet.

*Suidas is plaine, Βάνδον καλοῦσι Ῥωμαῖοι τὸ σημεῖον τὸ ἐν πολέμῳ, that is, The *Romanes* called their military enſigne, a **Band**: hence others haue vſed Βανδοφόρος to ſignifie as much, as *Signifer*, an **Auncient-bearer**.

* Suid. in voce Βάνδον.

CAP. 3.

De oppugnatione vrbis, & iis qua ad oppugnationem requiruntur.

IF the ſiege of a Towne ſeemed difficult and hard to compaſſe, then did the *Romanes* vſe certaine meanes of policie for the better effecting thereof. They inuironed the towne with a broad & deepe ditch, adding thereunto a rampier, fortified with many Caſtles and fortreſſes; whereby they both kept the Towne from any forraigne ſuccour, and withall ſecured themſelues from ſallies and other ſtratagems. This rampier did extend it ſelfe toward the wals of the City, ſo that by making (as it were a great hill, they might ouertop the City, and fight with the greater aduantage. Now that this great heape of earth might become firme and well able to ſupport the buildings to be erected vpon it, they did caſt in much timber and ſtones amongſt the earth; and this heape of earth, ſtones, and timber, when it was reared, was properly called, *Agger*; whence commeth both the Latine verbe *Exaggerare*, and the Engliſh to **Exaggerate**, that is, to amplifie or encreaſe a matter. The ſtakes, poſts, and trees, which were rammed in about this bulwarke or rampier, to vphold the earth, were ſometimes called q *Cerui*, becauſe of their forked and ſharpe tops; but more properly r *Valli*, and *Valla*. The diſtance or ſpace betweene each ſtake was called, *Intervallum*; though now *Intervallum* doth ſignifie, not onely ſuch a diſtance, but any diſtance either of place or time, as it appeareth

q Lipſ. polior. lib. 2. dial. 2.
r Serv. Aenei. lib. 10. Cic. ep. fam. lib. 1. ep. 7.

reth by that of [f] Tully: *Intervallo locorum, & temporum diſiuncti.* Sometimes *Vallus* doth ſignifie a pole or ſtake, whereunto vines are tyed; according to that receiued adage which we vſe, when a ſpeciall friend forſaketh one, *Vallus vitem decepit.* From the firſt ſignification it is, that *Vallum* doth often ſignifie the incloſure, or hedging in of trees and ſtakes, wherwith the bulwarke is vpheld. Alluding whereunto, [t] *A Gellius* tranſlateth Ἔρκος ὀδόντων, *Vallum dentium.* The meanes of their defenſe, whilſt they were making this their rampire, was a certaine engine or ordinance of warre, [u] made of planks and hurdles, running vpon wheeles, vnder which they might reſt ſecure from all ſtones and darts caſt from the wals of the Citty: it was called *Vinea.* A ſecond engine was *Muſculus.* The matter whereof it was made, I haue not read: but the vſe of it was, that vnder it the ſouldiers might approch vnto the wals of the Citie, and vndermine them. Thus much [x] *Lipſius* ſeemeth to inferre, when hee rendreth the reaſon of the name: *Muſculus ideò dictus, quia inſtar eius animalculi foderent ſub eo terram.* A third meanes of their defenſe was *Militaris teſtudo.* This word *Teſtudo* in the Art Militari, had a double acception, both being borrowed from the reſemblance of the *Tortoiſe* ſhell, which is the true and genuine ſignification of this word. In the firſt acception *Teſtudo*, [y] doth ſignifie a warlike engine or fenſe made with boards couered ouer with raw hides, which ſerued againſt fire and ſtones caſt at the ſouldiers: vnder this they might ſafely aſſaile the wals. [z] In the ſecond acception it ſignifieth a target-ſenſe, which was a cloſe holding together of targets ouer-head like a vault or roofe, wherewith the footmen did defend themſelues from the thick ſhot of arrowes, or ſlinging of ſtones. Their rampier or countermure being finiſhed, they vſed certaine great timber towers made vpon wheeles to run two and fro, which they called *Turres ambulatoriæ*, moueable turrets. Theſe towers had many ſtories one ouer the other, [a] wherein they carried ladders and caſting bridges, thereby to ſcale the wals

[f] Cic. ep. fam. lib. 1. ep. 7.

[t] A. Gel. Noc. Attic. l. 1. c. 15

[u] Roſin. ant. Rom. l. 10. cap. 16.

[x] Lipſ. polior. lib. 1. diaſ. 9.

[y] Roſin. ant. Rom. l. 10. c. 16.

[z] Stad. in Flor. l. 4. c. 10.

[a] Roſin. ant. Rom. lib. 10. cap. 16.

wals. The engines hitherunto haue beene defenſiue, ſuch wherewith the *Romanes* defended themſelues in their ſiedge: others there were offenſiue, wherewith they did aſſaile the City; and of thoſe the chiefe were *Baliſta ſive Catapulta, Scorpius ſive Onager, Aries,& Malleoli.* The firſt of theſe engines,as it was called *Baliſta* ἀπὸ τῆ βάλλειν, from darting or caſting forth any thing, [b] ſo was it in old time called *Catapulta* ἀπὸ τῆ κατὰ πέλτης, which ſignifieth a ſhaft or dart; though it cannot be denyed, but that *Pelta* doth alſo ſignifie a kinde of ſheild made in the forme of an halfe Moone,according to that of *Virgil*, *Æneid.lib.*1.

b Lipſ.polior. lib.2,dial.2.

Ducit Amazonidum lunatis agmina peltis,
Penthesilea furens.——

The forme thereof followeth, tranſlated word for word out of[c] *Marcellinus*.[Betweene two plankes there is ſet in frame, and faſt ioyned, a ſtrong and bigge yron, reaching out in length after the manner of a good great rule;out of the round body whereof, which is artificially wrought, there lyeth forth farther out a foure ſquare beame, made hollow with a direct paſſage in manner of a narrow trough, tyed faſt with many cordes of ſinewes twiſted one within the other, and thereunto are ioyned two wooden skrewes; neere vnto one of which ſtandeth the cunning Baliſtier, and ſubtilly putteth into the hollow paſſage of the beame a wooden ſhaft,with a bigge head glewed faſt to it. This done,on both ſides two luſty young men doe bend the engine,by turning about certaine wheeles.When the top of the head is drawne to the vttermoſt end of the cordes,the ſhaft being carried forth of the Baliſta, by the inward force thereof, it flyeth out of ſight.] That the reader may receiue the more light in the vnderſtanding of this obſcure deſcription, I haue added the very words of *Marcellinus*.[*Ferrum inter axiculos duos firmum compaginatur & vaſtum,in modum regulæ maioris extentum: cuius ex volumine teretis,quod in medio ars polita componit, quadratus eminet ſtylus extenſius recto canalis anguſti meatu cavatus, &*

c Am.Marc. lib.23.cap.3.

hac

hac multiplici chordâ nervorum tortilium illigatus: eiq; coeleæ duæ ligneæ coniunguntur aptiſſimè, quarum propè vnam adſiſtit artifex contemplabilis, & ſubtiliter adponit in temonis cavamine ſagittam ligneam ſpiculo maiore conglutinatam: hocq; facto hinc inde validis iuvenes verſant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumen veneret ſummum, percita interno pulſu à baliſta ex oculis evolat. In reſpect of its vſe we may engliſh it a **Croſſe-bow**: but it was much bigger, and of a different forme. The Scorpion, which now they call *Onager*, is deſcribed by *Marcellinus* in the ſame place thus. [Two Oaken or Elme beames are hewen out, and ſomewhat bended, ſo that they ſeemed to bunch out in backes; and theſe in manner of a *Saw engine are tied faſt together, being bored through with wide holes, through which (by the meanes of thoſe holes) ſtrong cords are tied, keeping in the whole frame that it ſtart not aſunder: *From betweene theſe bunches, another wooden beame reaching forth ouerthwart, and in manner of a waine-beame erected vp, is tied with ſuch deviſes vnto certaine ropes, that it may be pulled vp higher, or let down lower at ones pleaſure; and at the top thereof certaine yron hookes are faſtened, from which hookes there hanged downe a certaine ſling either of yron or tow: Vnder which erected beame there lyeth a great peece of haire-cloath full of ſmall chaffe tied faſt with cords, and placed vpon a banke of turffes, or an heape of brickes: When therefore it commeth to the point of skirmiſh, a round ſtone being put into the ſling, foure young men on one ſide looſing the beames, into which the ropes are incorporated, doe draw backe the erected beame vnto the hooke. Thus at length the Maſter of the engine ſtanding in ſome high place, giuing a mighty ſtroke with a hammer (and as I ſuppoſe, vpon the cord, whereunto the erected beame was faſtened, with his hooke) ſetteth open the rayles, that containe the whole worke, inſomuch that this erected beame being now at liberty with that quicke ſtroke, and hitting againſt the ſoft haire-cloath, it hurleth out the ſtone, that

* *Machina Serratoria.*

* Ab hac medietate teſtium:] *Here we muſt note that thys ſignificatiõ of teſtes is borrowed from the* Anatomiſts, *which doe call certaine eminẽt parts behinde* λαγὸς ὄπισθος Teſtes. Vid. Fuchſ. inſtit. med. l. 1. Sec. 5

that will batter whatſoeuer is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is alſo called *Scorpio*, becauſe when the long beame or tillar is erected, it hath a ſharpe top in manner of a ſting. The moderne time hath impoſed vnto it the name of *Onager*, that is, a wild Aſſe, becauſe that wild Aſſes, when they are courſed by hunters, fling backe ſtones with their heeles afarre off, ſo that oftentimes they pierce the breaſts of them that follow them. The Latine word is made from the Greeke ὄνος, that is, *Aſinus* & ἀγρὸς, *rus vel ager.* Now if any aske mee, why that ſackcloath and aſhes was interpoſed, the reaſon is rendred by *Marcellinus* in two lines, which I purpoſely did not tranſlate in their place, becauſe I would continue the ſenſe, without ſuch a long *parentheſis.* The reaſon is their deliuered thus; becauſe the violence and force of the erected beame recoiling, after it had beene by the ſtroke diſcharged, was ſuch, that it would ſhake in peeces the ſtrongeſt wals, except there were ſome ſoft thing interpoſed, whereby the forcible ſtrength of the recoile might be by degrees ſlacked. The *Aries* or Ramme, is deſcribed alſo by *Marcellinus* in the ſame place. [The Ram was a great tree, or beame *like vnto a Maſt of a ſhip*, hauing a peece of iron in manner of a Rams head, faſtned at the end thereof, wherewith they did demoliſh and batter downe the wals of a Citie. It was hung vnto a beame, which lay a croſſe ouer a couple of pillars, and hanged thus equally ballanced, it was by force of men pulled backward, and then recoiled vpon the wals.] The Rammes which *Titus* vſed at the ſiedge of *Hieruſalem*, ranne moſt on wheeles: which kinde of Rammes are deſcribed by *Ioſephus.* There be ſaith he, other manner of engines, as an iron Ram vpon 4. wheeles bound with yron, and faſtened with yron nailes; to this they make foure feete anſwerable to the bigneſſe of the beame, and euery foot hath his ſeuerall wheele, and when they will batter the wall, certaine men firſt pulling it backe, they recoile it by the helpe of foure wooden leuers put in the hin-

der part thereof for that purpose. The head of this Ramme hath no hornes, but is blunt, made of the strongest kinde of iron, with a wonderfull thicke necke. They haue also of both sides of the Ram a penthise of wood for the safegard of those that recoile it. *Iosephus Ben Gorion de bello Iudaico.* In lieu of these Rammes, another engine was found out, called *Helepolis, ab inuſitato* Ἕλω, that is, *capio*, and πόλις, that is, *ciuitas.* The forme of it is to be seene also in *Marcell. ibid.* [There was (saith he) a *Testudo*, or vaulted frame made, strengthned with very long peeces of timber: it was couered ouer with Oxe hides, and greene wicker hurdles: the vpper part or conuexe sur-face thereof was ouerlaid with mudde, to the end that it might keepe off the fall of fire and casting of weapons. Now there were fastned in the front of it, certaine *Cuſpides triſulcæ*, that is, yron pikes with three edges very massie, in manner of the thunderbolts which Painters and Poets exhibit vnto vs. This great engine the souldiers ruling within, with diuers wheeles and ropes, with maine force they thrust it against the wals.] [*Malleoli* (saith the same *Marcellinus*) were certaine darts fashioned on this manner; there was an arrow made of a Cane, betwixt the head and the nocke whereof was fastned an iron full of clefts; which arrow like vnto a womans distaffe, on which linnen is spinned, was finely made hollowe within the belly, yet open in many places: In the belly it receiued fire with fuell to feed vpon. And thus being gently discharged out of a weake bow (for with an ouer strong shooting the fire was extinguished) if it tooke fast hold on any place, it burned the same, and water being cast thereon, the fire increased: neither was there any meanes to quench it, but by casting dust on it.] Now if they could not preuaile by these engines called *Machinæ*, then did they make certaine passages vnder ground, which they called *Cuniculi* from *Cuniculus* signifying a Cony-berry: insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of [d] *Plutarch*, *Cæsar non iam cuniculis, sed*

[d] Plutarch. in vit. C. Cæs.

ſed machinis tollit rempublicam, that is, He doth not now couertly, but with open violence aſſault the Common-weale.

CAP. 4.

De pœnis in hoſtes deuictos.

ALbeit after the victory, the *Romanes* inflicted diuers degrees of puniſhments, according to the malice found in an enemie; yet were they alwaies compaſſionate, and (as hiſtories teſtifie) more exorable then any other Nation. The puniſhments which wee finde them to haue vſed towards a conquered Nation are theſe. Either they puniſhed them by death; or ſold them *ſub coronâ*; or diſmiſſed them *ſub iugum*; or merced them in taking away their territories; or made them tributary States. [c] An enemie was ſaid to be ſold, *ſub coronâ*, when he being placed in the market place, a crowne was put vpon his head in token of ſuch a ſale: or therefore certaine captiues were ſaid to be ſold *ſub coronâ*, becauſe at ſuch times they were enuironed about with ſouldiers to keepe them together, and this circle of ſouldiers, as likewiſe of all other companies, is called *Corona*. When they diſmiſſed any *ſub iugum*, [f] they erected two ſpeares, with a third lying a croſſe in manner of a gallowes: then they cauſed them being diſarmed, and their belt taken away to paſſe vnder in token of bondage. When their tetritories were taken from them, they were commonly conferred vpon old beaten ſouldiers, in way of remuneration for their faithfull ſeruice. This tranſplantation was termed *Coloniæ deductio*; and the place euer after, *Romana Colonia*, that is, a Romane Colonie. At which times they choſe out every tenth man, *viz.* ſuch as were able and of beſt ſufficiency to make and eſtabliſh a publike Councell, [g] whom they named *Decuriones*. Whence we may obſerue, that *Decurio* is not alwaies taken for a Captaine ouer ten horſemen, but ſometimes it is vſed to ſignifie an Al-

c A. Gel. lib. 7. cap. 4.

f Stad. in Flor. lib. 1. c. 12.

g Sig. de iure Ital. l. 2. c. 4.

derman, or chiefe Burgesse in a *Romane* Colonie. These Colonies were of two sorts, some called *Coloniæ Latinæ*: others *Italicæ*. The Latine Colonies had *Ius ciuitatis, suffragij & magistratus capiendi, si in sua Colonia magistratum gessissent. Italicis autem, Ius ciuitatis & suffragij nullum erat, immunes tamen erant nec tributum aut stipendium pendebant, vt prouinciæ solebant. Turneb. aduers. l.* 1 *c.* 11. Diuers times the *Romans* would be content after the conquest to grant to their enemies a peaceable enioying of their lands & possessions, conditionally, that they would yeeld all faithfull allegiance vnto that L. Deputy, whomsoeuer the *Senate of Rome* should place ouer them. The L. Deputy was either stilled by the name of a *Proprætor*, a *Proconsul*, or a *Præfectus*. Those places, where the two first sorts of gouernours did rule, were termed *Prouinciæ*; the other from the gouernour was termed *Præfectura*. Where we must obserue, that this word *Prouincia*, hath a threefold acception. First, it is taken for a Country, which by the force and power of Armes is subdued to the *Romane* Empire, and gouerned by some *Romane* Deputy sent from the *Senate*: and this is the proper & primatiue signification thereof, it being so called, [h] *Quòd populus Rom. eam provicit, id est, ante vicit*. Secondly, it is taken for any Region or Country, where the L. Generall or chiefe Captaine ouer a *Romane* Army doth manage warre against any Nation by commission from the *Senate*. Lastly, it signifieth any publike function, or administration of office, yea any priuate duty, charge, or taske either vndertaken, or imposed; according to that of [i] *Terence*, *Prouinciam cepisti duram*, that is, thou hast vndertaken an hard taske. Now the tribute to be paid, was either certaine, or vncertaine. The certaine was properly called *Tributum vel Stipendium*; and those who paid it were termed, *Tributarij siue Stipendiarij*: and this Tribute was of two sorts, either ordinary, such as was required from euery house yeerely, euen in the time of peace; or extraordinary, such as was leuied by a Law or Decree of the *Senate* towards vnexpected charges

h Pigh. lib. Tyrannif.

i Terent. in Phor.

ges. The vncertaine tribute [k] properly called *Vectigal*, was [l] either impoſt-mony, ſuch as was collected in hauen Townes for the tranſportation of Marchants wares, and that was called from *Portus Portorium*, or from *Porta Portarium*, and the receiuers thereof *Portitores*. The wares after the impoſt money had been paid, were ſealed by the *Publicanes* with a certaine kinde of tempered chaulke: and this is that which *Cicero* vnderſtandeth by *Aſiatica creta, orat pro Flacco*. Or Tithe corne, namely, the tenth part of their graine, and that was called from *Decem Decumæ*, and the receiuers thereof *Decumani*; though *Decumanus* when it is an adiectiue, ſignifieth as much as *Maximus*, according to that of *Ouid. lib. 1. de Triſt.*

Qui venit hic fluctus, fluctus ſupereminet omnes;
Poſterior nono eſt, vndecimoque prior.

The reaſon of this ſignification is [m] ſuppoſed to bee, becauſe in *Arithmeticke* among ſimple numbers, the tenth is the greateſt: or laſtly, that money which was paid by certaine heards-men, for paſturing their cattle in the Romane fields and forreſts. This kind of tribute was called *Scriptura*, and the paſtures *Agri Scripturarij*; becauſe (as [n] *Feſtus* ſaith) the bayliefe or receiuer of this money, called *Pecuarius*, did *Scribendo conficere rationes*, that is, keepe his account by writing. Where wee muſt note, firſt, that all theſe kinds of Tributes were not onely required in Prouinces or Countries ſubdued, but throughout *Italy*, euen in *Rome* it ſelfe. Secondly, though each collector of theſe Tributes was diſtinguiſhed by a peculiar name, yet by a generall name they were all called [o] *Publicani*, in as much as they did take to rent theſe publike tributes. The chiefe of them, which entred into bond, as the principall takers or farmers of theſe tributes, *Tully* calleth *Mancipes*. The others which were entred into the ſame bond as ſureties, were termed *Prædes*. Many times the *Romans* did beſtow the freedome of their citie vpon forraigne countries; and the degrees of freedome was proportioned accordingly as the countries were. Some they honoured with the name of *Romane* citizens, but excluded them from the right of ſuffraging,

k Sig. de iure Rom. l. 1. c. 16
l Stadius in Flor. l. 3. c. 13.
m Fr. Sylv. in vitor. illuſt. ep. 2. lib. 1.
n Sig. de iure Rom l. 2. c 4.
o Cic. de Aruſp. reſponſ. & alias ſæpe.

ging, leaving them alſo to be governed by their owne lawes and Magiſtrates. This State they called a *Municipal* State, in Latine *Municipium*, becauſe they were *Muneris huius honorarij participes*. By [p] *Munus honorarium* in this place is vnderſtood nothing, but the bare title of a *Romane* Citizen, whereby they were priviledged to fight in a legion as free deniſons; not in an auxiliary band, as the aſſociates. Now the firſt that ever obtained this Municipal ſtate, were the *Cerites*, who for preſerving the holy things of *Rome* in the time of the warre againſt the *Gaules*, were rewarded with the freedome of the citie, but without power of ſuffraging;* From whence it is, that thoſe tables, wherein the *Cenſors* inrolled ſuch as were by them depriued of their voyces, were called *Cerites tabulæ*; *Horace* calleth ſuch a table *Ceritem ceram*, for the reaſon ſhewne before. But we muſt withall obſerue, that ſome Municipall townes haue either by deſert or inſtant ſuit obtained the libertie of ſuffraging alſo, which occaſioneth that receiued diſtinction, that there was *Municipium ſine ſuffragio*, and *Municipium cum ſuffragio*. Other countries which could not bee admitted into the freedome of the City, haue obtained, and that not without ſpeciall and deſerued reſpects, to be Aſſociates and confederates vnto the State of *Rome*. The inhabitants of ſuch countries were ſometimes called *Socij*, ſometimes *Amici*, ſometimes *Latini nominis ſocij*, *&c.* The King or Prince of ſuch a Countrie did ſtile himſelfe *Amicus & Socius Senat. & Pop. Rom.* Here wee muſt obſerue a difference betweene *Pactio* and *Fœdus*, both ſignifying a kind of league. That truce which in time of warre is concluded vpon, and accepted of both ſides for a certaine [q] limited ſpace of time, is properly called *Pactio*; we commonly call it *Inducia*; and it differed from *Fœdus*: firſt, [r] becauſe that *Fœdus* is a perpetuall truce or league; ſecondly, becauſe it was neceſſarie, that one of thoſe **Heralds at armes**, called *Fœciales*, ſhould by a ſolemne proclamation confirme this league, called *Fœdus*; neither of which conditions was abſolutely requiſite in their truce, termed *Pactio*.

p A. Gel. noct. Attic. lib. 16. cap. 13.

* A. Gel. ibid.

q Sig. de iure Ital. l. 1. cap. 1

r Sigon ibid.

CAP.

CAP. 5.

Mulctæ militares, quibus milites Romani ob delicta afficiebantur.

TOuching the puniſhments that the *Romane* Lord Generall vſed towards his owne ſouldiers, when they were faultie, they were commonly proportioned vnto the fault committed. Sometimes they were eaſie, of which ſort were all thoſe puniſhments which did onely brand the ſouldiers with diſgrace; other times they were heavier, ſuch as did hurt and afflict the body. To the firſt ſort belonged theſe; Firſt, *Ignominioſa dimiſſio*, that is, a ſhameſull diſcarding of a ſouldier, when he is with diſgrace remooued from the army. Secondly, *Fraudatio ſtipendij*, that is, a ſtopping of their pay: and ſuch ſouldiers which ſuffred this kind of mulct, were ſaid to be *ære diruti*, [f] becauſe *Æs illud diruebatur in fiſcum, non in militis ſaculum.* Thirdly, *Cenſio haſtaria*, whereby the ſouldier was inioyned to reſigne and giue vp his ſpeare: for as thoſe which had atchieved any noble act, were for their greater honour *Haſtâ purâ donati*: ſo others for their greater diſgrace, were enforced to reſigne vp their ſpeare. Fourthly, the whole *Cohors*, which had loſt their banners, were compelled to eate nothing but barly bread, being depriued of their allowance in wheate; and every Centurion in that *Cohors* had his ſouldiers belt or girdle taken from him, which was no leſſe diſgrace amongſt them, then it is now amongſt vs, that a knight of our order of the Garter, ſhould be deprived of his Garter. Fifthly, for petty faults they made them to ſtand barefooted before the L. Generall his pavillion, with long poles often foote length in their hands: and ſometimes in the ſight of the other ſouldiers to walke vp and downe with turfes on their necks. In the laſt of theſe they ſeemed to imitate their city diſcipline, whereby malefactors were inioyned to take a certaine beame reſembling a forke vpon their ſhoulders, and ſo to carry it round

[f] Roſin. ant. l. 10. c. 25.

round about the Towne: It hath some affinitie with our carting of queanes here in England. In the first we haue no custome, that doth more symbolize, then the standing in a white sheete in the open view of a congregation. The last of their lesser punishments was the opening of a veine, or letting them blood in one of their armes: [t] which kind of punishment was vsed towards those alone, which (as they conceited through the abundance of their hot blood) were too adventurous & bold. The heavier kinds of punishment were these: first, *Virgis*; *vel Fuste cædi*, to be beaten with rods; or with staues and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that tablet, called *Tessera*, wherein the watchword was written; or that had forsaken their place, where they were appointed to keepe watch; or those who had stollen any thing from out the campe; or borne false witnesse against their fellowes, or abused their bodies by women; or lastly, that had beene punished thrise for the same fault: those which were in this manner cudgelled, were often killed in the place, but if they escaped aliue, they were to liue in perpetuall exilement. The ceremony vsed in this kind of cudgelling was, that the [u] Knight Martiall should lightly touch the party to be punished with a club; which being done, all the souldiers did beat him with staues and cudgels; whence we may say of one that deserveth a good cudgelling in [x] *Tully* his phrase, *Fustuarium meretur*. *Polybius* calleth it ξυλοκοπίαν. *Vid. Lips. de milit. Rom. lib. 5. Dial. 18.* If a *Romane* souldier had broken his rancke by going out of order, then *Virgis cædebatur*, that is, hee was scourged with rods. Sometimes the Knight Martial vpon iust occasion would cause them to be sold for bondslaues, to be beheaded, to be hanged. All these punishments were personall or particular; there remaineth one which was generall, namely, when the fault was generall, as in their vproares, conspiracies, &c. Vpon such occasions the souldiers were called together, and every tenth man vpon whom the lot fell, was punished with that kind of cudgelling aboue spoken

t Alex. Gen. dier. l. 2. c. 3.

u Trib. milit.

x Cic. orat. Phil. 3.

ken of; all the others eſcaped either without puniſhment, or with very little. The puniſhment it ſelfe was termed *Decimatio legionis*, and the reaſon of this kind of puniſhment, is rendred by y *Tully: vt metus viz. ad omnes, pœna ad paucos perueniret.* Sometimes ſuch was the clemency of the L. Generall, that he would puniſh onely the twentieth, nay the hundreth man, & then was it called *viceſimatio, vel centeſimatio legionis.*

y Cic. pro Cluent.

Cap. 6.

De donis militaribus ob rem fortiter geſtam.

Concerning the rewards which were beſtowed in warre, ſome were by the *Senate* conferred vpon the Lord Generall: others were by the Lord Generall conferred vpon his ſouldiers. Thoſe honours which the L. Generall received were three. Firſt, *Nomen Imperatoris*, of which before. Secondly, *ſupplicatio*, that is, a ſolemne proceſſion continued for many daies together, ſometimes more, ſometimes fewer: all which daies the *Romane* people did obſerue as holy daies, offring vp daily prayers and ſacrifices to the Gods in the behalfe of their L. Generall: the cuſtome being, that after ſome notable victory, the ſouldiers having ſaluted their chiefe captaine (whom I call their L. Generall) by the name of *Imperator*, then would hee ſend letters vnto the *Senate* dight with lawrell, wherein hee required both that name to bee confirmed and approved by them, as likewiſe that they would *Decernere ſupplicationes*, that is, appoint ſuch ſolemne ſupplications. Thirdly, they honoured him at his comming home alſo with a Triumph. *Triumphus vel maior, vel minor erat*, ſaith *Alexander*. The leſſer kind of triumph was properly called *Ouatio*, z *above*, from a ſheepe, which in this time of his triumph was led before him, and afterward ſacrificed by him: As alſo in the greater triumph (called properly *Triumphus*) the L. Generall ſacrificed a Bull. It differeth from the greater triumph firſt in the acclamation; for in the leſſer triumph, the ſouldiers following did as it were redouble this letter O, and

z Salmuth. in Pancir. l. rerum deperd. cap. de triumph.

ſome are of opinion, that it was therefore called *Ovatio.* In the greater triumph the ſouldiers followed crying, *Io triumphe, Io triumphe:* an example whereof may be ſeene in [a] *Horace*, where he deſcribeth the triumph of *Bacchus*, the firſt Author of this greater triumph; from whoſe [b] name alſo divers Authors doe deriue this word *Triumphus*, hee being in Greeke called θρίαμβος, which by a little change is made *Triumphus.* Secondly, they differed, becauſe in the greater triumph, the L. Generall did weare a garment of State, called by ſome *Trabea*, by [c] others, *Triumphalis*, *Picta vel Aurea veſtis*; likewiſe a garland of lawrell, riding in a chariot, the *Senators* themſelues, with the beſt of the *Romanes*, meeting him; his ſouldiers with their coronets, their chaines, and other rewards following after. But in the leſſer triumph, the L. Generall did weare a plaine purple gowne, without any gold imbrodering, and a garland of myrtle tree, [d] commonly going on foote, ſometimes permitted to ride on a horſe; the gentlemen and commonaltie of *Rome* alone without the *Senators* did meete him. Moreover, for a perpetuall memory of this their triumph in ſome publike place, certaine trophies were erected: [e] *Trophæum monumentum dixere nunc marmoreum, modò æneum, cum inſcriptione & titulis ævo perpetuæ duraturis.* [f] *Dictum eſt ἀπὸ τῦ τρέπεσθαι, id eſt, à converſione*, from making the enemies to retire and turne backe. Sometimes there were ſtatues, columnes, and arches built in token of triumph. Theſe arches, though commonly they were knowne by the name of *Archus triumphales*, yet ſometimes they are called *Fornices*, [g] whence it is, that *Tully* calleth *Fabianes* triumphall arch *Fabianem Fornicem.* If it ſo happened, that the Romane Generall himſelfe perſonally, did take away any ſpoiles from the chiefe Captaine of the enemies, then did hee hang them vp in a Temple conſecrated to *Iupiter Feretrius*; who was ſo called, [h] becauſe as the *Romanes* conceited, without the ſpeciall aſſiſtance of *Iupiter*, *Dux ducem ferire non poterat*: theſe ſpoiles had the name of *Opima ſpolia*, that is, Royall ſpoiles. The rewards beſtowed vpon the ſouldiers were divers; either places of office, as the place of a Centurion, of a *Præfectus*

a Ode. 2 lib. 4

b Salmuth. in Pancir. l. rerum deperd. cap. de triumph.

c Alex. Genial. dier. l. 6. c. 17.

d Dion. Halicar. lib. 5.

e Alex. Gen. dier. li 1. c. 22.

f Serv. Aenei. lib. 10.

g Fr. Sylv. in orat. Cic pro Cn. Plancio.

h Alex. Gen. dier. l. 1. c. 14.

ſtus, a *Decurio*, *&c.* or their pay was increaſed, the ſpoiles diſtributed amongſt them; or laſtly, they receiued certaine gifts, termed *Dona militaria*. In ancient times thoſe ſouldiers which had beſt deſerued, receiued a certaine meaſure of corne, called by them *Adorea*; [i] and hence it is, that *Adorea* is now vſed, to ſignifie ſuch laud and praiſe, as is due vnto a ſouldier. But after ages, for the better encouraging of the ſouldiers, haue found out more honourable rewards, of which [k] theſe were the chiefeſt; *Armilla*, that is, a bracelet for the hand-wreſt; *Torquis*, a chaine to weare about their necke; *Phaleræ*, horſe-trappings; *Haſta pura*, that is, a ſpeare having no yron at the end of it ([l] it is ſometimes called *Haſta donatica*, and *Haſta graminea*.) Laſtly, *Corona*, crownes, of which *A. Gell. lib. 5. cap. 6.* obſerueth theſe to haue beene the chiefe: 1 *Corona triumphalis*, which in old time was made of Lawrell, but afterward of gold, and thence was it called *Corona aurea*: it was ſent by the *Senate* vnto the L. Generall, in honour of his triumph: Secondly, *Corona obſidionalis*, which was given by the ſouldiers vnto their Generall, when they were freed from a ſiege: it was made of graſſe growing in that place, where they were beſieged, whence it had the name alſo of *Corona graminea*. Now the reaſon why they made this crowne of graſſe, growing in the place where they were beſieged, was thereby to yeeld vp their right in that place vnto their Captaine: for by that ceremony, as [m] *Pliny* obſerueth, they did *Terrâ & ipſa altrice humo & humatione etiam cedere*. And hence it is, that in races, and the like maſteries, he that was ouercome, did gather ſome of the graſſe of that place, and giue it vnto the conqueror, as a token that hee did acknowledge himſelfe conquered. [n] This is the reaſon of that Adage, *Herbam dare*, that is, to yeeld the victory. Thirdly, *Corona ciuica*, which was beſtowed onely vpon him, which had ſaued a Citizens life, [o] though in proceſſe of time it was alſo beſtowed vpon the L. Generall, if hee ſpared a *Romane* citizen, when he had power to kill him. It was commonly made of oake; whence it was called *Corona quernea*. And this I take to be the reaſon, why, in *Ovids* time, the Em-

i Alex. Gendier. li. 4. c. 18.

k Sig. de iure Romd. c. 15.

l Reſin. ant. lib. 10. c. 27.

m Plin. lib. 22. cap. 4.

n Salmuth. in Pancir. l. rerum deperd. cap. de coronis.

o Pigh. l. Tyrannif.

perour had alwaies standing before his gates, an oake tree in the midst of two lawrels, as Emblems denoting two worthy vertues required in all Emperours and Princes; first, such whereby the enemie might bee conquered: secondly, such whereby citizens might bee saued. Vnto this *Ovid* seemeth to allude, speaking of the lawrell tree.

p Ovid. Met. lib. 1. Fab. 9.

p *Postibus Augustus eadem fidissima custos*
Ante fores stabis, mediamque tuebere quercum.

q Dion. Halicar. lib. 10.

Fourthly, *Corona Muralis*: q He onely was honoured with this, which did first scale the wals, and enter first into the enemies, city: and hence this crowne was cut vpon the circlet or top like vnto the battlements. Fiftly, *Corona Castrensis*. This the L. Generall bestowed on him, which first entred into the enemies tents; it did beare in it the resemblance of a bulwark, or at least of the mound, wherewith the bulwarke was strengthened; which mound was called in Latine *Vallum*, and thence the crowne it selfe was often called *Vallaris corona*. Sixthly, *Corona naualis*, with which he was honoured, which first entred into the enemies ship in a battle vpon sea: it was portrayed with many ship-beakes, called in Latine *Rostra*, r whence the crowne it selfe was often called *Corona Rostrata*. That Romane *Hercules Siccius Dentatus* obtained almost all those seuerall rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle-tree, the L. Generall vsed it in the lesser kinde of triumphes, called *Ovationes*, from whence the Coronet it selfe was named *Ovalis*. It was then bestowed, when the Herald had committed some errour in denouncing warre; or when the enemies conquered were of meane ranke and place, as Servants or Pyrats; or else if the victory were gotten without bloodshed, or great hazard, the enemies yeelding without resistance. *In quibus impulueris & incruentis victoriis, aptam esse Veneris frondem crediderunt, quòd non Martius, sed quasi Venereus quidam triumphus foret.*

r Pigh. I Tyranif. ſ A. Gel noct. Attic. l. 2. c. 11.

A. Gel. l. 5. c. 6

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